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10th December—19th December, 1941

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BENGAL LEGISLATIVE COUNCIL.

PRESIDENT.

The Hon'ble Mr. SATYENDRA CHANDRA MITRA, M.L.C.

DEPUTY PRESIDENT.

Khan Sahib ABDUL HAMID CHOWDHURY, M.L.C.

PANEL OF CHAIRMEN.

1. Khan Bahadur M. ABDUL KARIM.
2. Mr. KAMINI KUMAR DUTTA.
3. Raja BHUPENDRA NARAYAN SINHA Bahadur.
4. Mr. J. B. Ross.

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Mr. S. A. E. HUSSAIN, B.L., Advocate.

REGISTRAR TO THE COUNCIL.

Mr. T. M. PAUL, B.A.

GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

His Excellency Sir JOHN ARTHUR HERBERT, G.C.I.E.

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The Hon'ble Dr. SYAMAPRASAD MOOKERJEE, Minister in charge of the Finance Department.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca, Minister in charge of the Department of Agriculture and Industries.

The Hon'ble Mr. SANTOSH KUMAR BASU, Minister in charge of the Department of Public Health and Local Self-Government.

The Hon'ble Khan Bahadur M. ABDUL KARIM, Minister in charge of the Education Department and of the Department of Commerce and Labour.

The Hon'ble Mr. PRAMATHA NATH BANERJEE, Minister in charge of the Revenue Department and of the Judicial and Legislative Departments.

The Hon'ble Khan Bahadur Maulvi HASHEM ALI KHAN, Minister in charge of the Co-operative Credit and Rural Indebtedness Department.

The Hon'ble Mr. SHAMSUDDIN AHMED, Minister in charge of the Department of Communications and Works.

The Hon'ble Mr. UPENDRA NATH BURMAN, Minister in charge of the Forests and Excise Department.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

1. Ahmad, Khan Bahadur Naziruddin. [Burdwan Division Muhammadan (Rural).]
2. Ahmed, Mr. Nur. [Chittagong Muhammadan (Rural).]
3. Ahmed, Mr. Mesbahuddin. [Bengal Legislative Assembly.]
4. Ali, Mr. Altaf. [Bengal Legislative Assembly.]
5. Aziz, Khan Sahib Abdul. [Presidency Division South Muhammadan (Rural).]

B

6. Baksh, Mr. Kader. [Bengal Legislative Assembly.]
7. Banerjee, Rai Bahadur Keshab Chandra. [Dacca Division North General (Rural).]
8. Barua, Mr. Dhirendra Lal. [Chosen by the Governor.]
9. Bose, Rai Bahadur Manmatha Nath. [Burdwan Division South-West General (Rural).]

C

10. Chakraverti, Mr. Shrish Chandra. [Calcutta General (Urban).]
11. Chaudhury, Mr. Moazzemali *alias* Lal Mia. [Faridpur Muhammadan (Rural).]
12. Chowdhury, Khan Sahib Abdul Hamid. [Mymensingh West Muhammadan (Rural).]
13. Chowdhury, Mr. Khorshed Alam. [Bakarganj Muhammadan (Rural).]
14. Chowdhury, Khan Bahadur Rezzaqul Haider. [Noakhali Muhammadan (Rural).]
15. Chowdhury, Mr. Hamidul Huq. [Bengal Legislative Assembly.]
16. Chowdhury, Mr. Humayun Reza. [Rajshahi *cum* Malda Muhammadan (Rural).]
17. Cohen, Mr. D. J. [Chosen by the Governor.]

D

18. Das, Mr. Lalit Chandra. [Chittagong Division General (Rural).]
19. Datta, Mr. Bankim Chandra. [Bengal Legislative Assembly.]
20. Datta, Mr. Narendra Chandra. [Bengal Legislative Assembly.]
21. D'Rozario, Mrs. K. [Chosen by Governor.]
22. Dutta, Mr. Kamini Kumar. [Bengal Legislative Assembly.]

E

23. Esmail, Khan Bahadur Alhadj Khwaja Muhammad. [Dacca North-West Muhammadan (Rural).]

F

24. Ferguson, Mr. R. W. N. [Bengal Legislative Assembly.]

G

25. Goswami, Mr. Kanai Lal. [Calcutta Suburbs General (Urban).]

H

26. Hosain, Khan Bahadur Saiyed Muazzamuddin. [Bengal Legislative Assembly.]
27. Hossain, Mr. Latafat. [Chosen by the Governor.]
28. Hossain, Mr. Mohamed. [Bengal Legislative Assembly.]
29. Huq, Khan Bahadur Syed Muhammad Ghaziul. [Tippera Muhammadan (Rural).]

J

30. Jan, Alhadj Khan Bahadur Shaikh Muhammad. [Calcutta and Suburbs Muhammadan (Urban).]

K

31. Kabir, Mr. Humayun. [Bengal Legislative Assembly.]
32. Karim, Khan Bahadur M. Abdul. [Mymensingh East Muhammadan (Rural).]
33. Khan, Khan Bahadur Muhammad Asaf. [Rangpur Muhammadan (Rural).]
34. Khan, Maulana Muhammad Akram. [Bengal Legislative Assembly.]

L

35. Laidlaw, Mr. W. B. G. [European.]
36. Lamb, Sir T. [Bengal Legislative Assembly.]

M

37. McFarlane, Mr. J. [European.]
38. Maitra, Rai Bahadur Brojendra Mohan. [Rajshahi Division South-West General (Rural).]
39. *Mitra, the Hon'ble Mr. Satyendra Chandra. [Bengal Legislative Assembly.]
40. Molla, Khan Sahib Subidali. [Bengal Legislative Assembly.]
41. Momin, Begum Hamida. [Chosen by the Governor.]
42. Mookerjee, Mr. Naresh Nath. [Bengal Legislative Assembly.]
43. Mookerji, Dr. Radha Kumud. [Bengal Legislative Assembly.]

P

44. Pal Chaudhuri, Mr. Ranajit. [Presidency Division General (Rural).]

Q

45. Quasem, Khan Sahib Abul. [Bengal Legislative Assembly.]

*President of the Bengal Legislative Council.

R

46. Rahman, Khan Bahadur Ataur. [Presidency Division North Muhammadan (Rural).]
47. Rahman, Khan Bahadur Mukhlesur. [Rajshahi Division North Muhammadan (Rural).]
48. Rashid, Khan Bahadur Kazi Abdur. [Dacca South-East Muhammadan (Rural).]
49. Ray, Mr. Nagendra Narayan. [Bengal Legislative Assembly.]
50. Ray, Rai Sahib Jogendra Nath. [Burdwan Division North-East General (Rural).]
51. Ray, Dr. Kumud Sankar. [Dacca Division South General (Rural).]
52. Ross, Mr. J. B. [Bengal Legislative Assembly.]
53. Roy, Mr. Amulya Dhone. [Bengal Legislative Assembly.]
54. Roy, Rai Bahadur Radhica Bhusan. [Bengal Legislative Assembly.]
55. Roy Chowdhury, Mr. Krishna Chandra. [Chosen by the Governor.]
56. Roy Chowdhury, Mr. Birendra Kishore. [Bengal Legislative Assembly.]

S

57. Sanyal, Mr. Sachindra Narayan. [Bengal Legislative Assembly.]
58. Sen, Rai Sahib Jatindra Mohan. [Rajshahi Division North-West (Rural).]
59. Shamsuzzoha, Khan Bahadur M. [Bengal Legislative Assembly.]
60. Singh Roy, The Hon'ble Sir Bijoy Prasad. [Bengal Legislative Assembly.]
61. Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. [Bengal Legislative Assembly.]

T

62. Talukdar, Dr. Kasiruddin. [Bogra *cum* Pabna Muhammadan (Rural).]

THE BENGAL LEGISLATIVE COUNCIL DEBATES

Third Session—No. 1.

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 10th December, 1941, at 2-15 p.m., being first day of the Third Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

The President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

Obituary reference.

Mr. PRESIDENT: Hon'ble members of the Council: At the outset of the proceedings of the House, the Chair would like to refer to the sad death of Mr. Jogindra Chandra Chakravarti, a distinguished public man of North Bengal, which had taken place on October 12th last.

Mr. Chakravarti was a lawyer of outstanding eminence in the whole of North Bengal. His erudition in the legal lore and brilliant achievements as a practising lawyer won deserved recognition at the hands of the members of the legal profession in his election as the President of the All-Bengal-and-Assam Lawyers' Conference.

In politics he was a staunch nationalist in the truest sense of the term. Although he commanded a very lucrative practice at the Bar, he did not fail to respond to the call for service and sacrifice in the cause of his Motherland. He was a man of strong convictions and would hold fast to his views regardless of all consequences. The transparent sincerity of purpose which inspired his activities always won the respect even of those who would differ from him in politics. He was elected to the Bengal Legislative Council as a member of the Swaraj Party. I had opportunities of working with him in this sphere and can personally testify to his abilities as a keen debater and sound Parliamentarian.

In private life Mr. Chakravarti was a man of sterling worth. By his amiability of disposition and large charities, he had endeared himself to all sections of his countrymen. He had a deeply religious and philosophical bent of mind and this enabled him to attend to his multifarious professional and public duties with a cheerful spirit unruffled by domestic misfortunes which it was his lot to work under. His sad death has created a void in the public life of this province which it would be difficult to fill up, indeed.

The sudden and unexpected death of Mr. Ashraf Ali Khan Chowdhury has cast a deep gloom over all sections of the members of the Bengal Legislature. A scion of an aristocratic family of the Rajshahi district in North Bengal, by his pleasing manners he made himself popular with all sections of the people. He came by a very cruel bereavement about a couple of months back in the death, under most tragic circumstances, of his only son who had earned a Commissioned rank in the military service. Evidently, that shock had proved too much for him!

Having been called to the Bar in 1912 he was for some time appointed a Judge of the Small Causes Court, Calcutta. He also acted as the Deputy Legal Remembrancer in the Calcutta High Court. He was a member of the old Bengal Council without any break since 1921—a fact which testifies to his immense popularity. Since the inauguration of the present constitution he had been the Deputy Speaker of the Bengal Legislative Assembly and had succeeded in winning the esteem and good-will of his colleagues in the Legislature, irrespective of party affiliations.

His death will undoubtedly be mourned by his numerous friends and admirers.

The news reached Calcutta yesterday of the death of Mr. C. E. Buckland, C.I.E., in England.

Mr. Buckland joined the Indian Civil Service in the year 1870 and rose to be the senior Member of the Board of Revenue. He was a member of the Bengal Legislative Council from the year 1893 to 1897 and again from 1899 to 1904 when he retired. He belonged to a family that had served Bengal for three generations successively. The sad death of such a well-known public servant will be deeply mourned.

I request the honourable members to rise in their seats as a mark of respect to the deceased persons.

(After the members resumed their seats.)

A message of condolence will be communicated to the members of the respective bereaved families in due course.

Panel of Chairmen.

Mr. PRESIDENT: Under rule 6 of the Bengal Legislative Council Procedure Rules, I nominate—

(1) Khan Bahadur M. Abdul Karim,

(2) Mr. Kamini Kumar Dutta,

(3) Raja Bhupendra Narayan Sinha Bahadur,

(4) Mr. J. B. Ross,

on the Panel of Chairmen for the current session.

House Committee.

Mr. PRESIDENT: Under rule 122 of the Bengal Legislative Council Procedure Rules, I nominate—

The Deputy President (Chairman, *ex-officio*),

(1) Mrs. K. D'Rozario,

(2) Khan Bahadur Mukhlesur Rahman,

(3) Mr. Dhirendra Lal Barua,

(4) Mr. R. W. N. Ferguson,

(5) Rai Bahadur Manmatha Nath Bose,

(6) Mr. Kanai Lal Goswami,

on the House Committee for the current session.

Governor-General's assent to Bills.

Mr. PRESIDENT: I have to inform the honourable members that the following Bills which were passed by both Chambers of the Bengal Legislature have been assented to by His Excellency the Governor-General under the provisions of section 76(*i*) of the Government of India Act, 1935, namely:—

(1) The Bengal Court of Wards (Amendment) Bill, 1941.

(2) The Bengal Raw Jute Taxation Bill, 1941.

Governor's assent to Bills.

Mr. PRESIDENT: I have also to inform the honourable members that the following Bills which were passed by both Chambers of the Bengal Legislature have been assented to by His Excellency the Governor under the provisions of section 75 of the Government of India Act, 1935, namely:—

(1) The St. Thomas' School (Amendment) Bill, 1941.

(2) The Bengal Patni Taluks Regulation (Amendment) Bill, 1941.

Indo-Burma Immigration Agreement.

The SECRETARY (Mr. S. K. D. Gupta): Sir, the following communication has been received from the Government intimating the action taken by them on the motions moved in and adopted by the Council under Rule 112 of the Bengal Legislative Council Procedure Rules:—

"Subject—Indo-Burma Immigration Agreement.

A copy of the Address presented to His Excellency the Governor by the Bengal Legislative Council together with a copy of the debates in the House on the subject mentioned above, has been forwarded to the Government of India".

Point of Privilege.

Mr. HUMAYUN KABIR: Sir, I rise on a point of privilege of the House. It is quite clear, since there is no Ministry to-day and there is no legally constituted executive Government in Bengal at the moment, that the Bengal Turbulent Areas Ordinance, 1941, cannot be placed before the House.

Before I take up that question I may say that a very grave breach of the privilege of this House has been committed in respect of this Ordinance in virtue of the fact that this Council was not summoned simultaneously with the Bengal Legislative Assembly on the 27th November, 1941. It is well-known to all members of this House that whenever an Ordinance is promulgated under section 88 of the Government of India Act, that Ordinance has all the force of an Act passed by both the Houses of the Legislature; but Ordinances differ in respect of continuity from such Acts. It has been laid down in section 88 (2) of the Government of India Act that "an Ordinance promulgated under this section shall have the same force and effect as an Act of the Provincial Legislature assented to by the Governor, but every such Ordinance shall be laid before the Provincial Legislature and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature * * *". There is a further discussion about the procedure which is necessary to terminate it earlier.

Now, Sir, the point is: if the Legislature disapproves of the Ordinance, it would cease to be an Ordinance and cease to have the force of law immediately after the summoning of this Legislature. But if the Legislature does not for some reason or other take any action whatsoever with respect to the Ordinance, it will even then automatically cease to have the force of law six weeks after the summoning of the Legislature. But here a very important question arises as to what this

summoning of the Legislature means. It is generally taken to mean that this would refer to the summoning of the Bengal Legislative Assembly or the Bengal Legislative Council. But, Sir, we are here in this Council under the Government of India Act and are bound down by its statutory provisions. In section 60 of the Government of India Act it is clearly laid down that the Legislature means both the Houses and the Governor whose position is that of a constitutional monarch.

Mr. PRESIDENT: Is it necessary to argue that point at length? I do not think any body would seriously contend that the Legislature means only the Legislative Assembly.

Mr. HUMAYUN KABIR: In a moment, Sir, I shall submit why I had to lay stress on what is obvious. In section 88 (*2*) of the Act it has been laid down that an Ordinance shall cease to have the force of law six weeks after the summoning of the Legislature. Now, Sir, if we also had been summoned on the 27th November,—there was at that time a Ministry functioning in this province—this Ordinance would have been placed before both the Houses of the Legislature on one and the same day and we might have been in a position to express an opinion on this Ordinance then and there. But that has not been done. Now, Sir, since the other House met, almost a fortnight has elapsed. This has in effect given an extension of life by two weeks to this Ordinance. My contention, Sir, is this. When the Government of India Act was enacted and these legislative powers were given to the Governor, it was intended by the Houses of Parliament that the exercise of these powers by the Governor shall be subject to certain restrictions. I shall, Sir, in a moment draw your attention to some of these restrictions which have been laid down in the Government of India Act itself.

The Governor can, under the Government of India Act, act only in one of two ways, either at his discretion or on the advice of the Council of Ministers. Now, Sir, whether he acts at his discretion or he acts on the advice of the Council of Ministers, a certain procedure is laid down in the Government of India Act which gives public opinion and the Legislature a certain supervisory control over the Ordinances of the Governor.

With regard to this Ordinance which was placed before the Assembly on the 27th of November and which is placed before us only to-day on the 10th December, six weeks from the date of summoning means an extension of a fortnight's life to this Ordinance. Sir, I was pointing out that the Governor can act only at his discretion or on the advice of the Council of Ministers——

Mr. PRESIDENT: Or in his individual judgment.

Mr. HUMAYUN KABIR: Yes, Sir, or in his individual judgment, in which case he takes the advice of his Ministers but is not bound to abide by it. He can take his own decision and therefore, Sir, I think that individual judgment will also in the ultimate analysis come to acting in his discretion. In the case of acting in his discretion, he is not constitutionally bound to take any advice of or consult the members of the Council of Ministers; whereas while acting in his individual judgment he is to consult the Council of Ministers but is not bound by their decision. But in either of these cases, Sir, the Governor who promulgates Ordinances is subject to a general control by the Governor-General, acting at his discretion, as is provided for clearly in section 54 of the Government of India Act, where it is said that "in so far as the Governor of a province is by or under this Act required to act in his discretion or to exercise his individual judgment, he shall be—'shall be' there is no question of option about it—he shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by the Governor-General in his discretion * * ". Therefore, Sir, if it be contended that the present Ordinance has been issued by the Governor at his discretion or in his individual judgment without referring to the Council of Ministers, even in that case he is subject to the general control by the Governor-General acting in his discretion and, Sir, it is again laid down in section 14 of the Government of India Act that whenever the Governor-General acts in his discretion he also is not entirely a free agent. Whenever a Governor-General acts in his discretion under section 14, it is provided that "In so far as the Governor-General is by or under this Act required to act in his discretion or to exercise his individual judgment, he shall be——

Mr. PRESIDENT: Order, order. As regards this particular Ordinance, it was promulgated by the Governor as advised by the Minister. This class of Ordinance is different from the Ordinance contemplated under section 89(*1*) of the Government of India Act, where the Governor is required to act in exercise of his discretion or individual judgment.

Mr. HUMAYUN KABIR: This strengthens my case. I am contending that even in the case of Ordinances issued by the Governor acting at his discretion or on his individual judgment, he is ultimately responsible to the House of Parliament. In the case of Ordinances issued on the advice of the Cabinet, they are subject to scrutiny in the Provincial Legislatures, but even where the Ordinance is beyond the competence of the Provincial Legislature, it is subject to the legislative control of Parliament.

Mr. PRESIDENT: Yes, I have understood your point. You need not elaborate this point any further. You may now deal with your second point.

Mr. HUMAYUN KABIR: Sir, the Governor has the power to summon the Legislature. The only obligation is that he must summon the Legislature at least once within 12 months. That point has been made clear in the course of Parliamentary Debates on the Indian Reforms Bill. Under section 62 of the Government of India Act, it is the Governor acting in his discretion that summons the Legislature and it would be very unlikely that Government responsible to the Legislature should not keep it informed in the matter of legislation. So, the Legislature must be summoned at an early date in order to get the sanction of the Legislature. Even in respect of Ordinances which are outside the purview of the action of the Council of Ministers, they shall, as I have pointed out, be subject to the control of the Houses of Parliament. Whether they are promulgated on the advice of the Ministers or are promulgated at the Governor's own discretion, in either case the Ordinances promulgated by the Governor will thus be subject to scrutiny.

My contention is that this House has not been called simultaneously with the Assembly and was not given a proper opportunity of expressing an opinion on the Bengal Turbulent Areas Ordinance. I may refer to Burma where an Ordinance of this type was promulgated by the Governor and both the Houses were called on the same day in order to get an expression of opinion of the Legislature on that particular Ordinance. Here in Bengal the same thing should have been done. In Bengal there is a further difficulty in that there is no Executive Government functioning at the moment.

Mr. PRESIDENT: Is it your contention that the period of six weeks after the re-assembly of the Legislature cannot be counted unless both the Houses are called simultaneously?

Mr. HUMAYUN KABIR: Yes, Sir. If there was a properly constituted Ministry and if the Legislature disapproved the Ordinance, then it would cease to have any force even before six weeks. But as the Houses were not called together, an extension of life has been given to this Ordinance. I do not know if this is permissible under the Government of India Act and I am afraid that any action taken under this Ordinance may be questionable in a court of law. Under this Ordinance, a man may be held guilty without taking into consideration whether he was an aggressor or he was aggrieved. I will not go into the merits of this Ordinance now, as we all know that the Ordinance as a whole is bad. At the present stage, I shall only say that on

account of two weeks having elapsed from the first date of the meeting of the Assembly, the Ordinance has had an extension of life for this period. Then again, the Ministers have ceased to function from the 7th December. Under the Government of India Act, no Provincial Government can function without a Council of Ministers and hence any action done during such period of the non-existence of Ministers may be questionable in law. Any action which might be done under the Ordinance may be of an illegal character. Hence the Executive Government of the province—whatever the Government may be at the present moment—is perhaps liable to civil damage in respect of any action which might be done in pursuance of this Bengal Turbulent Area Ordinance. Of course, it may be said that the King can do no wrong. In a sense it is true; but then the King can do no wrong because the King never acts on his own responsibility but acts always on the advice of his Cabinet. His actions are always undertaken through the Ministers. In Bengal also, we have under section 50 of the Government of India Act, 1935, the provision that "the Governor *shall* have a Council of Ministers who *shall* advise him" on certain matters except those particular matters which are reserved for the exercise of his discretion or his individual judgment. Therefore, my contention is that, now that there is no Council of Ministers in Bengal, there is no responsibly-constituted Executive in Bengal, and any action which might be taken under the Bengal Turbulent Areas Ordinance may be liable to civil damages. This is a point which I would most respectfully bring to the attention of His Excellency the Governor. As the constitutional head of the Province he cannot act by himself except when, under the provision of section 93 of the Government of India Act, 1935, he resumes to himself by Proclamation the powers——

Mr. PRESIDENT: Order, order. So far as I have understood the honourable member, his first point is: that the Council should not have been called about a fortnight later than the Assembly, for there would then be a difficulty about the counting of six weeks' time, when the Ordinance should automatically expire. I quite see your first point. Now you are making another point, namely, as to whether it is constitutionally correct that the Province should be without any Executive, that is, without a Council of Ministers. That is a different question altogether.

Mr. HUMAYUN KABIR: What I beg to submit is that it seems that there has been a second breach of the privilege of this House, in that we have been debarred from legislating for this Province. Action can be undertaken only according to legislation passed by both Houses to which assent has been given by His Excellency the Governor. Ordinances have the force of such law, but we have the right to demand

the repeal of an Ordinance. This also is a type of legislation, but now it has become impossible for this House to do its duty in this respect. It is thus doubtful whether at the moment a properly-constituted Executive Government exists in Bengal, because here the King, I mean the Governor, acts according to advice but he has no one to advise him now.

Mr. PRESIDENT: As I have told you, you are now arguing quite a different point. Your first point was that this House should have been summoned simultaneously with the other House, so that the Legislature might not have been deprived of the opportunity of discussing the Ordinance. That is your first point, as I have understood it. But now you are raising another point.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, may I rise on a point of order?

Mr. HUMAYUN KABIR: Sir, can there be a point of order to a point of privilege?

Mr. PRESIDENT: Order, order. Mr. Kabir will please proceed.

Mr. HUMAYUN KABIR: My first point was that by the summoning of the two Houses at different times an extension of life has been given to the Ordinance.

Mr. PRESIDENT: Well, take a hypothetical case. If this House had been called earlier and also prorogued before the other House was called, then the Legislature would not have got any opportunity to annul the Ordinance even if they so desired. It is true that the initiative about discussion of the Ordinance belongs to the other House but as soon as this House passes a resolution agreeing with them, the very passing of the resolution would automatically abrogate the Ordinance and it would not be necessary to send it to the Governor for his assent.

Mr. HUMAYUN KABIR: I am very grateful, Sir, that you have made this point so clear, for that is one of the grounds that I wanted to bring out; but, since you have made it so clear, I will only repeat what you have said. If this House had been summoned before the Assembly, and if the Council session would have come to an end earlier than the commencement of the session of the Lower House, in that case the provisions of sub-section (2) of section 88 of the Government of India Act could not have been fulfilled at all. I would, therefore, hold that if this House were called earlier that also would have been failing in the fulfilment of the purpose of the Government of India

Act so far as section 88(*2*) is concerned. From this I shall come to my second point, namely, that there is now an *interregnum* with no Executive existing in this Province, and the Legislature also is unable to exercise its Legislative functions. A resolution of the Legislature demanding the withdrawal of the Ordinance would have the force of a repealing Act, but no such resolution can be moved till there is a Ministry which can present to the House Government business for consideration and disposal. Hence, the absence of a Council of Ministers is depriving the House of one of its legislative functions and therefore involves a breach of the privileges of the House.

The Ordinance is going on even though there is no Government for the time being, and therefore no action can be taken by either House of the Legislature. The Legislative Assembly cannot move a resolution that this Ordinance should be immediately abrogated and repealed, and we cannot express our assent or dissent to any such resolution of the Lower House. This period of interregnum——

Mr. PRESIDENT: Or in other words, the laying of the Bengal Turbulent Areas Ordinance, 1941, cannot take place because there are no Ministers and the business of the Legislature, as settled by His Excellency the Governor, cannot be taken up.

Mr. HUMAYUN KABIR: Yes, Sir, that is my second point. No action can be taken by the Legislature: the function of the Legislature has been taken away from it. That is the position to which we have been led at the moment. Therefore, Sir, with your permission and with the permission of the House I would like to convey our sense of grievance at this breach of privilege to His Excellency the Governor. He is a constitutional Governor and has had a great deal of parliamentary experience in England and he will realise the constitutional difficulty in Bengal when there is a period of interregnum. I would point out that in English law it is said that "the King is dead, long live the King". On similar lines, we must hold that "the Ministers have resigned, long live the Ministers." It can, of course, mean, "long live the Ministers if the Ministers deserve a long life". But at present there is no Minister in Bengal and we have a period of *interregnum*. What makes the position more anomalous is that neither has the constitution been suspended.

If section 93 of the Government of India Act had been applied, then we would have no right to complain in this respect. But as it is now, I submit respectfully through you that there has been a breach of the privilege of the House. To sum up, Sir, my first point is: that this House should have been summoned simultaneously with the other House, as otherwise it would be difficult to give effect to the section which compels the withdrawal of the Ordinance within six weeks of

the summoning of the Legislature. My second point is: that with the dissolution of the Council of Ministers, the Ordinance cannot come before the House at all. It has not yet been laid on the Table before the House and there is nobody—no Minister—to lay it before the House for its consideration. Therefore, I would like to convey to His Excellency the Governor through you, Sir, that at the present moment we have no constitutional Government in Bengal. In these circumstances, I would like to urge His Excellency, through you, to consider the constitutional difficulty that will be created by the introduction or enforcement of any Ordinance, or other Government business. There is no Executive Government in Bengal ever since the acceptance of the resignation of the Ministers on 7th December, 1941. I would also like to draw the attention of His Excellency the Governor, through you, to the difficulties inherent in this situation. There may arise constitutional difficulties if the Ordinance is put into force, because any such act may be liable to civil damages. Therefore, Sir, if the House permits, I would like to present an Address to His Excellency the Governor that this House very respectfully submit to His Excellency that in the opinion of the House, since the date of the acceptance of the resignation of the Ministers there is no constitutional Executive Government in Bengal.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to the second point of Mr. Humayun Kabir I wish to submit one or two things. It seems there being no Government functioning through the Ministers, the items headed as "Government business" cannot be taken up. Therefore, the only way to prolong the Council session is to talk on points of order——

Mr. PRESIDENT: Order, order. Mr. Kabir is not speaking on any point of order but on a matter of privilege. A grave constitutional issue is involved in the point of privilege raised by Mr. Humayun Kabir and it should not be slighted in any way. Mr. Humayun Kabir contends that the House has been deprived of the privilege of discussing the Ordinance which should have been laid at the very first opportunity when the House met.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I fully agree with the first point raised by my friend Mr. Humayun Kabir. There is no doubt that a great constitutional privilege has been infringed by this differential treatment.

With regard to his second point that Government business has been suspended, I have something to say. Sir, we came here in the expectation of doing certain things. We had great expectations that certain important Bills would be presented to us and we have made some

amount of sacrifice of our time and our money in order to come here and be ready for discharging our legislative duties. Unfortunately, these Bills cannot be taken up in the absence of a Ministry. I, therefore, fully adopt the arguments of my learned friend Mr. Humayun Kabir and submit that we have a real grievance in the matter.

Mr. PRESIDENT: The honourable member should also appreciate the difficulties under which perhaps His Excellency is labouring,—I mean the war situation and other allied matters. Mr. Humayun Kabir requests the Chair to move in this matter but the Chair considers that it would not be consistent with constitutional propriety for the Chair to offer any advice to the Governor on this matter. However, the House, if it so desires, can present an Address to His Excellency drawing his attention to the present position.

Motion under Rule 112 of the Bengal Legislative Council Procedure Rules.

Mr. HUMAYUN KABIR: Therefore, Sir, if you would permit me to move that an Address under section 112 of our Rules be presented to His Excellency the Governor, I would like to move it. So far as our Rules are concerned, it is within your competence, Sir, to allow me to move this resolution to-day.

Mr. PRESIDENT: In view of the fact that no business can be transacted in the House before a Ministry is constituted, I shall allow Mr. Humayun Kabir to move a Motion under rule 112 at this stage.

Mr. Humayun Kabir can move it formally if he so likes.

Mr. HUMAYUN KABIR: I formally move—

That an Address be presented to His Excellency the Governor of Bengal through the Hon'ble President of the Bengal Legislative Council that this House respectfully submits to His Excellency that in the opinion of this House since the acceptance of the resignation of the Council of Ministers on the 7th of December, Bengal has no properly-constituted Executive Government.

Sir, I do not wish to make a long speech on this resolution. I would only draw the attention of the House to another point which is probably familiar to many honourable members of the House. Yet, in order to draw their pointed attention once more, I would suggest that we may refer to the Instrument of Instructions to the Governor which is obligatory on him. In Article VIII of the Instrument of Instructions, it is laid down clearly that "in all matters within the scope of the executive authority of the province, save in relation to

functions which he is required by or under the Act to exercise in his discretion, our Governor *shall* in the exercise of the powers conferred upon him be guided by the advice of his Ministers." Therefore, it seems that it is obligatory that His Excellency ought to be guided in the exercise of all activities of the Government of the province by the advice of his Ministers and when there is any activity which is reserved to him under section 54, it is only then that it is possible for His Excellency to act at his discretion or in his individual judgment. The only other alternative is to have recourse to section 93. But in the case of section 93, I would submit that very strong precautions have been laid down and very strict regulations made. Section 93 is not to be lightly invoked; the constitutional authority of the Government is not to be suspended unless a very difficult situation arises in the province. Sir, so far as we are aware, so far as we can judge, I do not think anyone will for a moment contend that in Bengal we have a situation where constitutional Government is impossible. There is a party with a very large majority, in both the Houses of the Legislature and the test that it has a majority in both the Houses of the Legislature is to be found in the fact that the Leader of this party is willing to form a Government and is also prepared to face the Legislature immediately after. The Leader of the party is sanguine that he enjoys the confidence of the Legislature in both the Houses and he is willing to act on that conviction. I think, Sir, that the conditions for the application of section 93 do not therefore arise.

I do not want to make any further observation at this stage. I would only request all honourable members of this House to consider whether in Bengal the situation is such as to necessitate the promulgation of section 93. In a sense, I would perhaps personally be glad if section 93 were applied to Bengal. In fact, if it be applied to all the provinces of India, this would prove to the world outside that the Government of India Act does not confer upon the people of India the rights which they are demanding for a very long time. We can then really prove to the world that there is no real democracy and real constitutional Government functioning under the Government of India Act. From that point of view, we might welcome the promulgation of section 93 in the whole of India. In fact, in 6 or 7 provinces, the administration is being run by the respective Governors. But that situation has not arisen in Bengal, and we are yet willing to exercise for the benefit of the province what little power the present system of provincial autonomy offers to us. In the present circumstances, I commend my resolution to the unanimous acceptance of the House.

Mr. PRESIDENT: Motion moved: that an Address be presented to His Excellency the Governor through the President of the Bengal Legislative Council that this House respectfully submits to His

Excellency that in the opinion of the House since the acceptance of the resignation of the Council of Ministers on the 7th December, 1941, Bengal has no properly-constituted Government.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, can it be called a resolution when it is worded in the way moved by the honourable member?

Mr. PRESIDENT: Yes, under rule 112 of the Bengal Legislative Council Procedure Rules an Address can be presented to His Excellency conveying the opinion of this House.

Mr. HUMAYUN KABIR: On a point of information, Sir. Are not the resolutions worded in this form?

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, may I be permitted to move another motion?

Mr. PRESIDENT: There is one motion before the House. You can speak on it or if you want to move any amendment, you can move it

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, my amendment and reasons are these: everybody knows that there is no Executive functioning at present and it is therefore no use and in fact it would be almost ridiculous to tell the people and the Governor that it is so. Everybody also knows that this matter is being considered and a Ministry may be formed in about half an hour or two hours; that, in fact, it is in the process of being formed. Therefore, Sir, my amendment is that the House be adjourned, as suggested by the Chair, from day to day, until the new Council of Ministers is formed. My amendment, therefore, is that the following words be added at the end of the Address, namely, "and the House be adjourned from day to day until a Ministry is formed"—to put it in the proper Parliamentary language.

Mr. LALIT CHANDRA DAS: Can I move another amendment, Sir?

Mr. PRESIDENT: Order, order. Will Mr. Roy Chowdhury write out his amendment and let me have it?

Mr. LALIT CHANDRA DAS: May I move an amendment now, Sir.

Mr. PRESIDENT: Let Mr. Roy Chowdhury move his amendment properly.

Mr. HUMAYUN KABIR: Sir, may I rise on a point of order? May I respectfully draw your attention to the fact that this is not a proper amendment at all? It purports to say that the House shall be adjourned from day to day till a Ministry is formed,—a power which the Chair has already got.

Mr. PRESIDENT: I am sorry I could not quite catch every word of the amendment. In view of the fact that the Chair has the prerogative to adjourn the House at any time, the proposed amendment would be out of order.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Then, I withdraw the amendment, Sir.

Mr. LALIT CHANDRA DAS: May I move an amendment now, namely, that at the end of the Motion the following words be added, "and this House is therefore unable to transact any business"?

Mr. HUMAYUN KABIR: I am prepared to accept the amendment.

Mr. PRESIDENT: Since the Motion was moved by Mr. Humayun Kabir, an amendment has been moved by Mr. Lalit Chandra Das proposing to add the following words at the end of the main Motion, "And this House is therefore unable to transact any business".

I take it that nobody is willing to speak on the main Motion or on the amendment.

Mr. LALIT CHANDRA DAS: My amendment has been accepted by the mover.

Mr. HUMAYUN KABIR: I think I have no right to accept an amendment finally. It is the property of the whole House and the whole House may accept it or reject it.

Mr. PRESIDENT: Motion moved: that "An Address be presented to His Excellency the Governor of Bengal through the President of the Bengal Legislative Council that this House respectfully submits to His Excellency that in the opinion of this House since the acceptance of the resignation of the Council of Ministers on the 7th of December Bengal has no properly-constituted Executive Government";

since which the following amendment has been moved, namely:—

that the following words be added at the end of the motion:—

"and this House is therefore unable to transact any business".

The question before the House is that the amendment be made.

(The amendment was agreed to.)

I shall now put the main Motion, as amended, namely:—

That an Address be presented to His Excellency the Governor of Bengal through the President of the Bengal Legislative Council that the House respectfully submits to His Excellency that in the opinion of this House since the acceptance of the resignation of the Council of Ministers on the 7th of December, Bengal has no properly-constituted Executive Government and this House is, therefore unable to transact any business.

(The Motion was agreed to.)

Mr. PRESIDENT: The House now stands adjourned till 2-15 p.m. to-morrow, the 11th December, 1941.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 11th December, 1941.

Members absent.

The following members were absent from the meeting held on the 10th December, 1941:—

(1) Mr. Kader Baksh.

(2) Mr. Narendra Chandra Datta.

(3) Mr. Kamini Kumar Dutta.

(4) Khan Bahadur Khwaja Muhammad Esmail.

(5) Khan Bahadur Syed Muhammad Ghaziul Huq.

(6) Khan Bahadur Muhammad Asaf Khan.

(7) Dr. Radha Kumud Mookerjee.

B. G. Press—1941-42—10711A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

Third Session—No. 2.

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 11th December, 1941, at 2-15 p.m., being the second day of the Third Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

MR. PRESIDENT (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

PRESENTATION OF THE REPORTS OF SELECT COMMITTEES.

The Bengal State-aid to Industries (Amendment) Bill, 1941.

Mr. NUR AHMED: Sir, may I have your permission to present the report of the Select Committee on the Bengal State-aid to Industries (Amendment) Bill, 1941?

Mr. PRESIDENT: Yes.

Mr. NUR AHMED: I beg to present the report of the Select Committee on the Bengal State-aid to Industries (Amendment) Bill, 1941.

The Bengal Markets Regulation Bill, 1941.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I, Sir, with your permission, present the report of the Select Committee on the Bengal Markets Regulation Bill, 1941.

Mr. PRESIDENT: Yes.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to present the report of the Select Committee on the Bengal Markets Regulation Bill, 1941.

The Bengal Criminal Law (Industrial Areas Amendment) Bill, 1941.

Mr. KHORSHED ALAM CHOWDHURY: Sir, with your permission, I beg to present the report of the Select Committee on the Bengal Criminal Law (Industrial Areas Amendment) Bill, 1941.

Mr. PRESIDENT: The Chair has been informed that His Excellency the Governor has commissioned the Hon'ble Mr. A. K Fazlul Huq to form a Ministry and that the latter has already recommended two names in this connection. It is expected that by to-morrow the constitution of the Cabinet will be complete.

The House now stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 12th December, 1941.

Members absent.

Following members were absent from the meeting held on the 11th December, 1941:—

(1) Mr. Kader Baksh.
(2) Mr. Shrish Chandra Chakraverti.
(3) Mr. Narendra Chandra Datta.
(4) Mr. Kamini Kumar Dutta.
(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(6) Mr. Mohamed Hossain.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(9) Khan Bahadur Muhammad Asaf Khan.
(10) Maulana Muhammad Akram Khan.
(11) Mr. W. B. G. Laidlaw
(12) Sir T. Lamb.
(13) Dr. Radha Kumud Mookerjee.
(14) Dr. K. S. Ray.
(15) Mr. Sachindra Narayan Sanyal.
(16) Rai Sahib Jatindra Mohan Sen.
(17) Khan Bahadur M. Shamsuzzoha.
(18) Dr. Kasiruddin Talukdar.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

Third Session—No. 3.

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 12th December, 1941, at 2-15 p.m., being the third day of the Third Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Short-notice Question.

Mr. LALIT CHANDRA DAS: Sir, with your permission may I put a short-notice question with regard to the arrest of Mr. Sarat Chandra Bose in his house yesterday?

Mr. PRESIDENT: Yes, what is your question?

Mr. LALIT CHANDRA DAS: Sir, my question is: whether this arrest has been made on the initiative of the present Government or of the previous Government and whether the present Government knows anything about it or as to how the arrest was brought about and whether from the side of the Government any statement can be made on the subject?

Mr. PRESIDENT: If the Hon'ble Ministers are in a position to answer this question, then alone this can be taken up. The Ministers are not bound to answer this question.

The Hon'ble Dr. SYAMAPRASAD MOOKERJEE: Sir, the position briefly is this. The new Ministers, as honourable members are aware, took their oaths of office only this morning and this order was served on Mr. Sarat Chandra Bose yesterday. So, the present Ministry could have nothing to do with this order. The communiqué issued in this connection also clearly indicates that the order was passed by the Government of India directly. Whether the past Ministry had anything to do with it or not, obviously that is not a question which we are in a position to answer. This is all I can say just now.

Mr. HAMIDUL HUQ CHOWDHURY: Is the Hon'ble Minister in a position to state whether, and if so what steps, they are going to take to get Mr. Bose released?

The Hon'ble Dr. SYAMAPRASAD MOOKERJEE: I think, Sir, I can assure the House on behalf of the Hon'ble the Chief Minister, the Hon'ble the Nawab Bahadur of Dacca and myself that the present Ministry will do all that is possible for them to do to secure the release of Mr. Sarat Chandra Bose.

Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister please refer to the question put by Mr. Lalit Chandra Das and try to answer the same, namely, what were the circumstances under which this arrest was brought about and lay a statement before the House as to what——

Mr. PRESIDENT: Order, order. The Hon'ble Minister has made it clear that they have taken the oaths of allegiance and secrecy only this morning and that the distribution of portfolios has not been made yet. He has also stated that the order for the arrest of Mr. Bose was passed previously and that they are not in a position to enlighten the House further on that point.

Khan Bahadur NAZIRUDDIN AHMAD: My question is: whether the Hon'ble Minister will kindly try to ascertain the circumstances and place the facts before the House?

The Hon'ble Dr. SYAMAPRASAD MOOKERJEE: The request will be borne in mind.

Mr. PRESIDENT: That is a request for action and not a question.

Mr. HUMAYUN KABIR: I shall request the Hon'ble Minister to make a statement as soon as they are in possession of the full facts and to explain before this House what exactly were the circumstances which led to the arrest of Mr. Bose and what steps it is possible for the Ministry to take——

Mr. PRESIDENT: But that has already been asked by Khan Bahadur Naziruddin Ahmad.

The Hon'ble Dr. SYAMAPRASAD MOOKERJEE: As I said, Sir, the new Cabinet has not yet met and what I expressed obviously was the individual opinion of the three Ministers who form at the moment the present Cabinet. But I can assure the House that the matter will be considered by the Cabinet and due report will be made to the House, if necessary.

Mr. LALIT CHANDRA DAS: I want through you, Sir, to inform the Hon'ble Minister that from the very nature of the questions put from different sides of the House it is clear that it is the unanimous wish of this House that the release of Mr. Sarat Chandra Bose should be secured immediately.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, may I put one supplementary question? If what is stated in the communiqué, namely, that Mr. Bose was in league with the Japanese is correct, may I know what will be the attitude of the Government?

Mr. PRESIDENT: That is a hypothetical question

The Hon'ble Dr. SYAMAPRASAD MOOKERJEE: Sir, may I make one submission at this stage? The new Ministry was appointed yesterday. In fact the Ministry has not yet been fully constituted. Only three Ministers have been appointed with the Hon'ble Mr. A. K. Fazlul Huq as the Chief Minister We took our oaths of office and secrecy this morning, as I said just now. I think it will be desirable if we adjourn the business of the House, in view of the fact that the portfolios have not yet been distributed. If we adjourn till Wednesday next, by that time the constitution of the entire Cabinet is expected to be completed and the House may then proceed with its normal business I make this suggestion for the consideration of the House.

Mr. NUR AHMED: Sir, I beg to move that the time for the submission of the Select Committee Report of the Bengal Gambling Amending Bill be extended up to——

Mr. PRESIDENT: You may raise this question next day. The Chair appreciates the difficulty of the Ministry. It has been formed only to-day. The oaths of office and secrecy have been taken this morning. Therefore, I agree with the suggestion of the Hon'ble Minister and adjourn the House till 2-15 p.m. on Wednesday, the 17th December, 1941.

The House stands adjourned till 2-15 p.m. on Wednesday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 17th December, 1941.

Members absent.

Following members were absent from the meeting held on the 12th December, 1941 :—

(1) Mr. Kader Baksh.
(2) Mr. Shrish Chandra Chakraverti.
(3) Mr. Narendra Chandra Datta.
(4) Mr. Kamini Kumar Dutta.
(5) Khan Bahadur Alhadj Khwaja Muhammad Esmail.
(6) Mr. R. W. N. Ferguson.
(7) Mr. Mohamed Hossain.
(8) Khan Bahadur Syed Muhammad Ghaziul Huq.
(9) Khan Bahadur M. Abdul Karim.
(10) Khan Bahadur Muhammad Asaf Khan.
(11) Mr. W. B. G. Laidlaw.
(12) Sir T. Lamb.
(13) Dr. Radha Kumud Mookerjee.
(14) Dr. K. S. Ray.
(15) Mr. J. B. Ross.
(16) Rai Sahib Jatindra Mohan Sen.
(17) Khan Bahadur M. Shamsuzzoha.
(18) Dr. Kasiruddin Talukdar.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

Third Session—No. 4.

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 17th December, 1941, at 2-15 p.m., being the fourth day of the Third Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Mr. PRESIDENT: We will take up the outstanding questions of the last Budget session, first of all.

Part-time medical officers in the Calcutta Medical College.

106. Khan Bahadur REZZAQUL HAIDER CHOWDHRRY: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) the number of part-time medical officers in the Calcutta Medical College;

(*b*) how many posts of part-time medical officers are reserved for Muslims;

(*c*) whether any post reserved for Muslims has been filled up by non-Muslim officers in the last three years;

(*d*) if so, what is the number of such posts filled up by non-Muslim officers;

(*e*) how long non-Muslim officers were allowed to continue in each such case;

(*f*) whether applications were invited from Muslim candidates before vacancies were filled up;

(*g*) if so, whether applications from Muslim candidates were received; and

(*h*) if so, why the claim of Muslim candidates was ignored?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Santosh Kumar Basu): (*a*) It has been ascertained from the honourable member that information is wanted in respect of part-time medical officers and honorary medical officers at the Medical College Hospitals, Calcutta. A statement showing the number of honorary medical officers is laid on the Table. There is no part-time medical officer in the Medical College Hospitals in the strict sense of the term.

(*b*) to (*h*) None of the honorary posts is reserved for Muslims. In filling up these posts, however, the claims of qualified Muslim candidates, if available, are duly considered. As regards the junior house staff, the appointing authorities in all State medical institutions have definite instructions to see that a fair share of these appointments goes to Muslim doctors. That these instructions are being followed will be evident from the fact that 14 Muslim students who passed the Final M. B. Examination from the Medical College during the period from July, 1939, to July, 1941, were all provided with appointments in the junior house staff in the institution.

Statement referred to in reply to clause (a) of question No. 106.

(1) Honorary Senior Visiting Physicians and Surgeons ...	14
(2) Honorary Junior Visiting Physicians and Surgeons ...	16
(3) Honorary Junior Staff (including Clinical Tutors, Anæsthetists, House Physicians, House Surgeons, Clinical Pathologists and Clinical Assistants of the Eye Infirmary) ...	74
Total ...	**104**

Mr. HAMIDUL HUQ CHOWDHURY: Sir, may I bring to your notice the fact that we have not got copies of the questions answers to which are being read out by Hon'ble Ministers?

Mr. PRESIDENT: It is the business of the honourable members to bring all the papers that are distributed to them for their use in the Council Chamber.

The next question relates to the Finance Department. The Hon'ble Mr. Santosh Kumar Basu may read out the answer to this question.

The Hon'ble Mr. SANTOSH KUMAR BASU: Sir, the position is this: the portfolios have not yet been distributed but if you desire

me to read out the answer to this question, I am prepared to do so. I may, however, be permitted to say that the present Ministry is not in a position to accept the policy enunciated in these answers, because the Cabinet has not had any sitting yet to consider the replies. If any question of policy arises out of these answers, then I may state that Government do not take any responsibility for the policy outlined in them.

Mr. PRESIDENT: When questions are asked, the object is to elicit information only. If anybody asks for statement of any policy in connection with any answer to a question, the Hon'ble Minister may ask for notice, so that the question may be answered later.

The Hon'ble Mr. SANTOSH KUMAR BASU: I am much obliged to you, Sir.

Recruitment of non-Bengalees.

107. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state if it is a fact that many non-Bengalees have been appointed to important and responsible posts in Bengal since the inauguration of Provincial Autonomy in Bengal?

(*b*) Will the Hon'ble Minister be pleased to lay on the Table a list of the non-Bengalees appointed in the public services under the Government of Bengal during the year 1937-1941 (up to 28th February), with their names, qualifications, pay, the names of the respective posts, and special reasons, if any, for which they have been appointed in preference to candidates for Bengal?

(*c*) Do the Government propose to lay down a strict rule that in future no non-Bengalee should be appointed except in a very exceptional case and that also for very special reasons?

The Hon'ble Mr. SANTOSH KUMAR BASU (on behalf of the Minister in charge of the Finance Department): (*a*) Yes, some non-Bengalees have been appointed due, in the large majority of cases, to the want of suitable Bengalee candidates.

(*b*) A statement is laid in the Library. As I have stated above, the question of preference over Bengalee candidates does not arise as in the large majority of cases, suitable Bengalee candidates were not available.

(*c*) Government do not consider it necessary.

Mr. PRESIDENT: Will any Hon'ble Minister reply to the next question on behalf of the Hon'ble Minister-in-charge of the Judicial and Legislative Departments?

The Hon'ble Mr. PRAMATHA NATH BANERJEE: I will do so, Sir.

Suspension of office work during "Jumma" prayers.

108. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Judicial Department be pleased to state whether there are Government orders requiring suspension of business of all courts and offices on Friday for *Jumma* prayer?

(*b*) If the reply to (*a*) be in the affirmative, whether such orders apply to the High Court of Judicature at Fort William in Calcutta?

(*c*) If the answer to (*b*) be in the negative, will he kindly state whether Government does not consider it necessary that the orders should apply to the High Court as well?

MINISTER in charge of the JUDICIAL DEPARTMENT (the Hon'ble Mr. Pramatha Nath Banerjee): (*a*) Yes.

(*b*) No.

(*c*) The High Court regulates its own business.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*c*), is the Calcutta High Court under the Bengal Government?

The Hon'ble Mr. PRAMATHA NATH BANERJEE: Sir, it is rather a difficult constitutional question. For certain purposes the Calcutta High Court is under the jurisdiction of the Local Government and for other purposes it is not. In order to enable me to answer this question, therefore, I am afraid, I have to ask for notice.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly consider the desirability of informing the Calcutta High Court that facilities as given in other courts, namely, closing of the Court during *Jumma* prayer, be given by the High Court and the Court be closed during *Jumma* prayer?

The Hon'ble Mr. PRAMATHA NATH BANERJEE: I ask for notice, Sir.

Outstanding Questions of the last Monsoon Session.

Aid to Egra Middle English School.

99. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Education Department be pleased to state that—

(*a*) if it is a fact that the Government has given a donation of Rs. 500 to Egra Middle English School for girls in Contai subdivision in the district of Midnapore to the Circle Officer, Egra, who resides at Egra;

(*b*) if the amount was paid on the recommendation of the said Circle Officer; if so, what was the date of the recommendation and when was the amount paid;

(*c*) if it is a fact that up to the 31st May, 1911, there was no such school in existence at Egra, nor was there any building to accommodate the said school; and

(*d*) if the answer of part (*c*) be in the negative—

(*i*) who is the head master or head mistress of the school and what does the staff consist of, and how many girls are there in the school,

(*ii*) if it is recognised by the Education Department, and

(*iii*) if the school was visited by any officer of the Education Department; if so, when, and what was the remark?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Khan Bahadur M. Abdul Karim): (*a*) A donation of Rs. 500 out of the discretionary grant placed at the disposal of the District Magistrate was made to the Egra Middle English School for girls through the Secretary of the school.

(*b*) An application for grant was recommended by the then Circle Officer, Egra. The date of recommendation was the 30th September, 1940. The amount was paid on 31st March, 1911.

(*c*) No.

(*d*) (*i*) The name of the head master is Babu Raghunath Das. The staff consists of the head master and two assistant teachers. There are 37 girls in the school now.

(*ii*) No.

(*iii*) Uptil now the school has not been visited by any officer of the Education Department.

Rai Bahadur MANMATHA NATH BOSE: Arising out of (*c*), will the Hon'ble Minister be pleased to state when did the school actually come into existence and when did the construction of the building begin?

The Hon'ble Khan Bahadur M. ABDUL KARIM: I ask for notice, Sir, as I took the oath of office only this morning.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state when the head master and the two teachers mentioned in the printed reply were appointed?

The Hon'ble Khan Bahadur M. ABDUL KARIM: My reply is the same as in the case of the previous question—I ask for notice.

Dacca University Examinations of 1941.

100. Khan Sahib ABDUL HAMID CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if due to communal riot at Dacca, all University Examinations at Dacca had to be held over and consequently there was delay in the publication of the results?

(*b*) If so, is it a fact that the successful students intending to get education outside Dacca, have not been able to file their applications for admission into different institutions, such as Medical College, Engineering College, Veterinary College, etc., within the prescribed time?

(*c*) If the answer to the above questions be in the affirmative, will the Hon'ble Minister be pleased to state if the Government proposes to direct extension of time for admission into various institutions?

(*d*) If not, why not?

The Hon'ble Khan Bahadur M. ABDUL KARIM: (*a*) On account of disturbances in the town, examination of five theoretical papers of the B.A. examination and the B.Sc. Honours Practical examination were postponed and these examinations were held in June after the re-opening of the University.

The results of the examinations of 1941, viz., B.A., B.Sc., B. Com. were published by the Executive Council on the 5th July, 1941.

(*b*) No specific case has come to my notice.

(*c*) and (*d*) Do not arise.

Muslim Orphanage at 8, Syed Saleh Lane.

*101. **Mr. HUMAYUN KABIR:** Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) if he is aware that there is a Muslim Orphanage at 8, Syed Saleh Lane, Calcutta;

(*b*) if the said orphanage receives any aid from the Government; if so, what is the amount;

(*c*) what is the total number of boys of the institution;

(*d*) whether it is a fact that about 40 per cent. of these boys are Bengali speaking;

(*e*) what are the number of boys from Calcutta and mufassal districts respectively;

(*f*) whether it is a fact that the teaching of Bengali has been discontinued in the said institution;

(*g*) if the answer to part (*f*) is in the affirmative, what is the reason for such discontinuance;

(*h*) whether the Hon'ble Minister is aware of the great discontent caused among Bengali Muslims as a result of such discontinuance, and

(*i*) whether he will take early steps to have the teaching of Bengali restored?

The Hon'ble Khan Bahadur M. ABDUL KARIM: (*a*) Yes.

(*b*) The orphanage proper does not receive any grant from Government for its maintenance. The Middle English School attached to it receives a grant of Rs 180 per month.

(*c*) 234.

(*d*) About 36 per cent.

(*e*) A statement is laid on the Table.

(*f*) and (*g*) Yes, as the majority of the boys are Urdu speaking.

(*h*) No.

(*i*) The matter is under consideration.

Statement referred to in reply to clause (e) of question No. 101, regarding the number of boys in the Calcutta Muslim Orphanage from Calcutta and mufassal districts areas.

Calcutta	...	...	...	60
Noakhali	...	...	...	3
Bogra	..	...	...	1
24-Parganas	..	...	...	30
Burdwan	...	...	...	6
Jessore	...	...	.	6
Mymensingh	...	...	...	2
Hooghly	...	. .	...	12
Dacca.	...		...	1
Khulna	...	.	...	9
Nadia	..	...	...	6
Tippera		...	..	2
Murshidabad	...	...	...	2
Howrah	...	...	...	5
Faridpur		...	...	1
			Total	146

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to tell us if any arrangement will be made for teaching Bengali to these 36 per cent. of the students referred to in answer (*d*), who are Bengali-speaking?

The Hon'ble Khan Bahadur M. ABDUL KARIM: I ask for notice, Sir; the matter will be considered.

Wakf Board.

102. Mr. NUR AHMED: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) what was the total income and expenditure of the Bengal Wakf Board during the years 1940, 1939, 1938 and 1937;

(*b*) how much of these annual expenditures were spent on the office staff, and how much on the protection of Wakf estates and the recovery of the estates;

(*c*) how many Wakf estates have been registered up to March, 1940, and what is their total annual income;

(*d*) whether any representation has been received from the *mutwallis* of the Wakf estates complaining that the levy of fee at the rate of 5 per cent. is causing hardships on the Wakf estates and that they are finding it very difficult to pay the same; if so, whether the Government propose to pay a part of the expenditure of the Wakf Board from provincial revenues; if not, why not; and

(*e*) if any complaint has been received stating that the Commissioners of Wakfs have been given sufficient powers for protection and efficient management of Wakf estates; if so, whether the Government propose to amend the present Bengal Wakf Act with a view to give necessary powers to the Board of Wakfs, and Wakf Commissioner; if so, when?

The Hon'ble Khan Bahadur M. ABDUL KARIM:

(*a*) Year.		Income.	Expenditure.
		Rs.	Rs.
1940-41	..	1,04,903	1,30,641
1939-40	..	1,47,236	1,25,212
1938-39	..	83,803	1,66,201
1937-38	.	1,33,457	1,05,121.

(*b*) Year.		Amount spent on the office staff.	Amount spent on the protection and recovery of Wakf estates.
		Rs.	Rs.
1940-41	..	63,503	1,402
1939-40	..	50,667	3,638
1938-39	.	77,869	7,532
1937-38		52,279	8,043.

(*c*) The number of Wakf estates enrolled up to 31st March, 1940, was 6,712 with the gross income of Rs.64,60,227.

(*d*) I am not aware of any representation having been received from the *mutwallis* of Wakf estates in general, complaining of hardship being caused by the levy at the rate of 5 per cent. of the net available income. I may, however, state that when the Board of Wakfs is convinced of the levy causing undue hardship to a particular Wakf estate, the Board will grant to it, with the previous approval of Government, such relief as is provided in section 59 (2) of the Act.

(*e*) I am not aware of any such complaint having been received but I may state that it has been found as a result of the administration

of the Act during these years that it requires amendments in various directions with a view to improve matters and to invest the Board of Wakfs and the Commissioner of Wakfs with adequate powers to enable them to carry out effectively the purposes of the Act. I may add that the drafting of a comprehensive amending Bill remedying this and other defects of the Act has been engaging the attention of Government.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*b*), then are we to understand that the income of the Wakf estates has been increasing from Rs. 52,000 to Rs. 63,000 whereas the amount spent on the protection and recovery of the Wakf estates has been decreasing, more than proportionately, from Rs. 8,000 to Rs. 1,000?

The Hon'ble Khan Bahadur M. ABDUL KARIM: Sir, I ask for time to enable me to answer the supplementary questions properly.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*c*), when can we expect an amendment of the Wakf Act?

The Hon'ble Khan Bahadur M. ABDUL KARIM: Sir, the Cabinet will decide the point and it will be done as soon as may be possible.

Raid on the house of Mohanta of Joydeb Kundabilwa.

103. Rai Sahib JOGENDRA NATH ROY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) if the Government are aware of the facts that the house of the Mohanta of Joydeb Kundabilwa in the district of Birbhum was raided on the 22nd August, 1941, as published in newspapers of the 29th August, 1941;

(*b*) whether the Government have made any enquiry into the matter;

(*c*) if so, what is the result of the enquiry with a detailed statement of the whole matter;

(*d*) the latest development, if any, of the situation; and

(*e*) what steps, if any, Government have taken to bring the situation under control?

The Hon'ble Mr. SANTOSH KUMAR BASU (on behalf of the Hon'ble Minister in charge of the Home Department): (*a*) The Police are enquiring into the matter.

(*b*) and (*c*) The honourable member is referred to the answer to (*a*).

(*d*) No report of any other alleged disturbance has been received by Government.

(*e*) Does not arise.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state when was the police enquiry started and when is it likely to be finished?

The Hon'ble Mr. SANTOSH KUMAR BASU: I am sorry, Sir, I have to ask for notice.

Rai Sahib JOGENDRA NATH ROY: Arising out of (*a*), how long it will take to enquire into the matter?

The Hon'ble Mr. SANTOSH KUMAR BASU: The same answer, Sir, I ask for notice.

Section 86A of the Bengal Tenancy Act.

104. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) whether the Government are aware that some confusion has been created for non-mention of section 86A (of Bengal Tenancy Act as a restriction on exclusion of Act by agreement) in section 178 of the Bengal Tenancy Act and doubt has been expressed regarding applicability of section 86A of the Bengal Tenancy Act in case of permanent *mukarrari* lease;

(*b*) if so, what action the Government propose to take in this matter; and

(*c*) if not, whether the Government will be pleased to have the question examined by an expert and will bring an amending Bill, if necessary?

The Hon'ble Mr. PRAMATHA NATH BANERJEE: (*a*) No.

(*b*) and (*c*) Do not arise.

Posting an Assistant Surgeon in the King Edward Hospital, Midnapore.

105. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) if he is aware that the Midnapore Municipality has since 1925 been paying its prescribed contribution of Rs.4,000 per year to the Government for retaining an Assistant Surgeon and never represented that the municipal commissioners were unable to make the usual contribution;

(*b*) if so, if there is any likelihood of an Assistant Surgeon being posted at an early date to the (Sadar) King Edward Hospital in Midnapore; and

(*c*) if he is aware that the District Board, Midnapore, is contributing large sums of money to the Hospital Committee for the past few years for securing the services of an Assistant Surgeon at the said hospital; whether there was any correspondence between the Hospital Committee and the Government regarding the contribution made by the District Board and the retention of an Assistant Surgeon at Midnapore; if so, to what effect?

The Hon'ble Mr. SANTOSH KUMAR BASU: (*a*) The Midnapore Municipality has been paying an increased contribution of Rs. 4,000 to the (Sadar) King Edward Hospital in Midnapore since 1925-26, for treatment of more in-patients and not for retaining an Assistant Surgeon there. The contribution is paid to the hospital and not to the Government.

(*b*) It will not be possible to post an Assistant Surgeon to the Sadar Hospital, Midnapore, unless and until the Hospital Committee undertake to meet the increased contribution for an Assistant Surgeon.

(*c*) The District Board, Midnapore, makes an annual grant of Rs.8,000 to the above hospital, but there is no condition attached to this grant for appointment of an Assistant Surgeon. The District Board, however, passed a resolution in March, 1939, requesting the Hospital Committee to appoint an Assistant Surgeon in place of the Sub-Assistant Surgeon. It is reported by the Civil Surgeon, Midnapore, that the two new departments—the X-ray Department and the Pathological laboratory— recently opened in the said hospital take up a fairly large portion of the hospital fund and it is quite impossible for the Hospital Committee to meet the additional cost of replacing the Sub-Asistant Surgeon by the Assistant Surgeon.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state if it is a fact that an Assistant Surgeon was posted to the Sadar Hospital at Midnapore when the contribution was less than Rs. 4,000 and the Assistant Surgeon continued to be posted there till 1932, that is, long after the contribution of Rs. 4,000 was made?

The Hon'ble Mr. SANTOSH KUMAR BASU: I ask for notice.

Improvement of road, irrigation, etc.

106. Mr. NUR AHMED: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state

(*a*) the total expenditure incurred out of provincial revenue and Government of India's grant—

(*i*) on improvement of roads,

(*ii*) on irrigation,

(*iii*) on drainage, and

(*iv*) on embankment, and out of the total expenditure spent under each of these heads, how much was spent for each district and what projects and schemes;

(*b*) whether it is a fact that there are heavy showers of rain at Chittagong mostly for six to eight months in a year and that during the rainy season motor traffic has to be stopped on all the roads of the mufassal areas of Chittagong;

(*c*) if so, whether the Government propose to improve at least those roads which are of provincial importance such as Ramgar Road, Arakan Road; if not, why not; and

(*d*) what is the total amount received by the Government of Bengal out of Government of India's Road Fund from 1937 to 1940, and how much of it has been spent in Chittagong?

The Hon'ble Mr. PRAMATHA NATH BANERJEE (on behalf of the Minister in chage of Communications and Works Department): (*a*) A statement is laid on the Table.

I would, however, observe that it is not possible to indicate the amount of expenditure in each district separately, because all projects are not confined within the boundaries of a single district and accounts are not maintained district by district in the case of inter-district projects.

(*b*) The honourable member is better aware of the local climatic conditions than I am; I would certainly admit that motor traffic during the

monsoon in the mufassal areas of Chittagong is as restricted as it is in similar areas of most of the other districts of Bengal during that season.

(*c*) If by the expression "to improve" is meant surface treatment so as to provide a modern dustless road, I regret to say that no proposal to "improve" the Ramgar or the Arracan Road can now be entertained as the Government of India are now unwilling to expand the present road programme of Bengal.

(*d*) The total receipt from the Road Fund during the years from 1937-38 to 1940-41 is Rs.77,71,484 out of which Rs.8,29,716 was spent on projects in Chittagong during the same period.

Statement referred to in reply to clause (a) of question No. 106.

Expenditure on—	During 1937-38.	During 1938-39.	During 1939-40.	During 1940-41.
	Rs.	Rs.	Rs.	Rs.
Improvement of roads.	16,91,442	22,53,530	29,02,471	31,54,634
Irrigation ..	7,53,560	6,53,836	4,92,714	3,88,020
Drainage ..	1,85,228	2,81,420	5,70,127	3,87,834
Embankment ..	6,75,057	10,19,731	8,76,392	8,83,271

Non-payment of motor car tax in Jessore.

107. Mr. AMULYA DHONE ROY: Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*a*) the names of the owners of motor cars ordinarily plying within the area of Jessore, who between the months of October, 1940, to July, 1941, did not pay their taxes in time as contemplated in section 4(2) of the Motor Vehicles Tax Act;

(*b*) the names of the motor car owners who gave intimation to the taxing officer that their cars were not kept for use;

(*c*) the date of the intimation given;

(*d*) the date on which the defaulters surrendered their tokens and paid their taxes;

(*e*) the names of the officers of the district serving under any department of Government, who did not pay their taxes in time between the period mentioned above;

(*f*) whether it is a fact that the Subdivisional Officer of Jhenidah and one Babu B. K. Basu, Engineer, did not pay their taxes in time;

(*g*) what is the date on which and the quarterly period for which they paid their taxes;

(*h*) what are the dates on which they surrendered their tokens; and

(*i*) whether there is any record in the office of the taxing officer, Motor Vehicles Tax Department, Jessore, to show that they did not use their cars?

The Hon'ble Mr. PRAMATHA NATH BANERJEE (on behalf of the Minister in charge of Communications and Works Department): (*a*) to (*e*) A statement giving the information is laid on the Table.

(*f*) Yes.

(*g*) (1) The Subdivisional Officer, Jhenidah, paid tax for the period from 1st April, 1941, to 31st March, 1942, on the 2nd April, 1941. (2) Mr. B. K. Basu paid tax for the period from 1st April, 1941, to 31st March, 1942, on the 4th April, 1941.

(*h*) (1) on the 2nd April, 1941 (2) on the 5th April, 1941.

(*i*) No.

Statement referred to in reply to clauses (a) to (e) of question No. 107.

(a)	(b)	(c)	(d)		(e)
			Date of surrender of token.	Date of payment of tax.	
(1) Dr. S. C. Sen, District Health Officer, Jessore.	(a) Mr. M. R. Barua ..	(a) On 20th December, 1940.	(1) 2nd January, 1941.	6th January, 1941.	(1) Mr. A. C. Dutt, Subdivisional Officer, Communications and Works, Jessore.
(2) Mr. A. D. Ray, M.L.C.	(b) Mr. A. D. Ray, M.L.C.	(b) On 3rd January, 1941.	(2) 3rd January, 1941.	23rd April, 1941.	
(3) Mr. A. C. Dutt, Subdivisional Officer, Communications and Works, Jessore.	(c) Mr. A. C. Dutt, Subdivisional Officer, Communications and Works, Jessore.	(c) On 13th January, 1941.	(3) 13th January, 1941.	13th January, 1941.	(2) Mr. A. M. Dutt, Civil Surgeon, Jessore.
(4) Mr. A. M. Dutt, Civil Surgeon, Jessore.	*(d) Mr. B. M. Mitra, I.C.S., District and Sessions Judge, Jessore.	(d) On 30th June, 1941.	(4) 1st April, 1941.	1st April, 1941.	
(5) Mr. S. C. Dutt, Subdivisional Officer, Jhenidah.			(5) 2nd April, 1941.	2nd April, 1941.	(3) Mr. S. C. Dutt, Subdivisional Officer, Jhenidah.
(6) Mr. M. R. Barua, Professor.	*(e) Mr. S. C. Basu, Subdivisional Officer, Sadar.	(e) On 30th June, 1941.	(6) Lost by owner.	3rd April, 1941.	
(7) M. B. K. Basu, Assistant Engineer, Irrigation.			(7) 5th April, 1941.	4th April, 1941.	(4) Mr. B. K. Basu, Assistant Engineer, Irrigation.
(8) Mr. B. M. Mitra, I.C.S., District and Sessions Judge, Jessore.			(8) 30th June, 1941.	2nd July, 1941.	(5) Mr. B. M. Mitra, I.C.S., District and Sessions Judge, Jessore.
(9) Mr. S. C. Basu, Subdivisional Officer, Sadar.			(9) 30th June, 1941.	2nd July, 1941.	(6) Mr. S. C. Basu, Subdivisional Officer, Sadar.
(10) Babu Lakshmi Kanta Ray, Vice-Chairman, District Board, Jessore.			(10) 19th August, 1941.	16th August, 1941.	

*By surrender of tokens before expiry.

"Puber Bandh" of Rashpur, Howrah.

108. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that the *Puber Bandh* within the Rashpur Union, district Howrah, was breached during the high flood in August, 1939?

(*b*) Is it a fact that the public and the Rashpur Union Pally Samity passed resolutions on the 10th September, 1939, requesting the Government to repair the above *Puber Bandh* and Someswar Khoira *Khal*?

(*c*) Is it a fact that the Chief Engineer to the Government of Bengal recommended the repair of the above *Puber Bandh* and Someswar Khoira *Khal* as per his letter No. 2129-C.I., dated the 12th August, 1940, to the District Magistrate?

The Hon'ble Mr. PRAMATHA NATH BANERJEE (on behalf of the Minister in charge of Communications and Works Department): (*a*) and (*b*) Yes.

(*c*) No. It was only suggested that the party should apply to the Collector of Howrah for permission under section 76 of the Bengal Embankment Act, to repair the *Puber Bandh*.

As regards the Someswar Khoira *Khal*, it is the private property of the zemindar and Government have nothing to do with it.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister look into the matter himself and enquire whether recommendation was made by the Collector of the district to the effect that this bund should be repaired by the joint cost of the locality?

The Hon'ble Mr. PRAMATHA NATH BANERJEE: The Hon'ble Minister in charge of Communications and Works Department will certainly look into the matter.

Re-excavation of Suti river.

109. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that the Suti river, which passes mainly through the Municipal area of the Baraset subdivision, has silted up and that the current of the water during the rainy reason has not an easy passage and as a consequence practically the whole subdivision is effected with malaria and other diseases due to such obstruction and accumulation of stagnant water, specially during the rainy season?

(*b*) Is it a fact that considering the urgency and demand of its excavation the Government of Bengal had undertaken the scheme over a decade ago and commenced the work? Is it also a fact that the work has been suspended? If so, when and why?

(*c*) Is it not a fact that due to obstruction to the current, the adjacent roads and the agricultural fields are overflowed and remain under water during the rainy season? If so, is the Hon'ble Minister aware that as a consequence of this the neighbouring villages lose their harvest almost every year and are attacked with various sorts of maladies?

(*d*) If the replies to the above be in the affirmative, does the Hon'ble Minister propose to take up the question of re-excavation of this river immediately?

(*e*) Is it also a fact that the 24-Parganas District Board is considering the proposal of widening this river in co-operation with the Government? If so, when may the final decision be expected?

The Hon'ble Mr. PRAMATHA NATH BANERJEE (on behalf of the Minister in charge of Communications and Works Department): (*a*) Yes. The surrounding area is unhealthy.

(*b*) The work which was taken up by Government as the agent of the District Board under the provisions of the Bengal Sanitary Drainage Act, 1895, was suspended in 1923 owing to the District Board's intimating their inability to shoulder the responsibility of realising the cost from the benefited persons.

(*c*) Yes, occasionally.

(*d*) The question of improvement of the river is under consideration.

(*e*) I am not aware.

Issuing of petrol coupons to muffassil members of the Legislature.

110. Mr. AMULYADHONE ROY: Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*a*) whether the Government are aware that applications were made by muffassal members of the Provincial Legislature for ordinary and supplementary coupons to the Area Rationing Authority, Calcutta Area, having its office at 77-B, Park Street, Calcutta;

(*b*) whether the said applications were returned on the ground that they should be submitted to the District Magistrate concerned;

(*c*) whether the Government have made any arrangement for supplying coupons to the members who will stay here till the session of the Provincial Legislature is over; and

(*d*) if the answer to part (*c*) is in the negative whether the Government are prepared to make any arrangement in this respect?

The Hon'ble Mr. PRAMATHA NATH BANERJEE (on behalf of the Minister in charge of the Commerce and Labour Department): (*a*) Government have no information on the point Applications are dealt with as they are received and no record of the names of persons with their professions is maintained.

(*b*) Under the rules only the Rationing Authority within whose jurisdiction the car is registered or its owner ordinarily resides, can issue coupons for that particular car. In case of temporary change of residence, i.e., for a period not exceeding 6 months in duration, applications can be entertained by the Area Rationing Authority where the vehicle for the time being is used. It is possible that failure on the part of the applicant to explain that the change of residence was temporary has been responsible in some cases for the return of applications.

(*c*) and (*d*) Do not arise.

The Bengal Secretariat Co-operative Death Benefit Society.

111. Mr. LATAFAT HUSSAIN: (*a*) Is the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department aware—

(*i*) that there is a society entitled "The Bengal Secretariat Co-operative Death Benefit Society" composed of Government servants of offices located in Calcutta and registered under the Co-operative Societies Act (II of 1912) and which carries on business under the control of the Registrar, Co-operative Societies, Bengal:

(*ii*) that there is a proposal pending before the society of converting the character of the society,

(*iii*) that most of the members of the society hold the view that such conversion of the society to the different kind as proposed will be detrimental to the interest of the society;

(*iv*) that a representation has been made to the Government in this respect; and

(*v*) that this Death Benefit Society is interlinked with the Bengal Secretariat Co-operative Society situated in the same room

of the Writers' Buildings, Calcutta, and that the work of the latter has been affected very much by the suspension of business of the Death Benefit Society?

(*b*) If the answer to part (*a*) be in the affirmative, does the Hon'ble Minister propose to take steps to keep it *mutatis mutandis* on its existing form?

The Hon'ble Mr. SANTOSH KUMAR BASU (on behalf of the Minister in charge of the Co-operative Credit and Rural Indebtedness Department): (*a*) (*i*) and (*ii*) Yes.

(*iii*) Government have no information on the point.

(*iv*) and (*v*) No.

(*b*) Does not arise.

Sinking of tube-wells in Calcutta.

112. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if it is the policy of the Government to encourage the sinking of tube-wells in Calcutta by private persons on their own land?

(*b*) Is he aware of the difficulties of private persons in securing sanction from the Corporation of Calcutta for sinking such tube-wells?

(*c*) Is it necessary under the Calcutta Municipal Act to secure such sanction from the Corporation for tube-wells on private land?

(*d*) Do the Government propose to take steps to permit the sinking of tube-wells without any previous sanction in such cases?

The Hon'ble Mr. SANTOSH KUMAR BASU: (*a*) Yes. Under the Calcutta Municipal Act, 1923, the Corporation of Calcutta is concerned with the question of sinking tube-wells within its jurisdiction.

(*b*) No. No complaint from private persons in this regard has been brought to my notice.

(*c*) Yes. Under the provisions of clause (2) of rule 9 of Schedule XVIII of Calcutta Municipal Act, 1923, the Corporation of Calcutta has issued a general order applicable to the whole of the area within their jurisdiction, prohibiting the sinking of tube-wells except on certain conditions.

(*d*) Government have at present no intention, in fact, it does not seem to be necessary on their part, to interfere with the working of the Calcutta Corporation in the matter of sinking tube-wells in the metropolis.

Adulterated food.

•**113. Khan Bahadur ATAUR RAHMAN:** Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) if the Public Health Department has any control over the detection of and punishment for the sale of adulterated food in rural areas by the retailers to the consumers;

(*b*) if not, which authority is controlling the adulteration of foodstuff in rural areas; and

(*c*) whether there is any control over adulteration of the foodstuffs, such as, oil, *ata* at the source where it is produced; and if so, which authority is controlling the same?

The Hon'ble Mr. SANTOSH KUMAR BASU: (*a*) and (*b*) Subject to the statutory control exercised by Government in the Public Health Department, under the provisions of the Bengal Food Adulteration Act, 1919, the administration of the Act in the rural areas, including the detection of and prosecution for the sale of adulterated food, lies mainly in the hands of the District Boards.

(*c*) Yes, the local authorities for the areas within their respective jurisdiction.

Central Co-operative Banks.

114. Rai Bahadur BROJENDRA MOHAN MAITRA: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether it is a fact that the financial positions of some of the Central Co-operative Banks in Bengal are not sound?

(*b*) Is it a fact that some of the Central Co-operative Banks, e.g., Goalundo Co-operative Central Bank and Lalbagh Co-operative Central Bank, are not paying interest, nor even deposit money after maturity to the depositor?

(*c*) Will the Hon'ble Minister be pleased to lay on the table the reports of inspection by the Registrar, Co-operative Societies, with respect to the above Banks?

The Hon'ble Mr. SANTOSH KUMAR BASU: (*a*) and (*b*) Yes.

(*c*) Registrar, Co-operative Societies, did not inspect these two Banks.

Appointment of Special Officer, Debt Conciliation.

115. Mr. LATAFAT HUSSAIN: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) whether applications were invited recently from candidates for the posts of Special Officer, Debt Conciliation;

(*b*) whether these candidates were interviewed by respective District Magistrates for the purpose of primary selections;

(*c*) whether subsequently more applications were invited from new candidates;

(*d*) if so, whether these new candidates from the Bakarganj district were interviewed by the District Magistrate, Bakarganj, if so, when and whether they were interviewed individually or *en masse;*

(*e*) whether the old candidates from Bakarganj were re-interviewed along with the new ones; if not, why not; and

(*f*) whether any one from these new candidates from Bakarganj was selected by the District Magistrate; if not, why not?

The Hon'ble Mr. SANTOSH KUMAR BASU Minister in charge of the Co-operative Credit and Rural Indebtedness Department: (*a*) to (*c*) and (*f*) Yes.

(*d*) Yes; on the 11th August, 1941; individually.

(*e*) No; not considered necessary.

Aladinagar Debt Settlement Board.

116. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) who is the present Chairman of Aladinagar Debt Settlement Board No. 2 in police-station Begumganj, district Noakhali;

(*b*) when he was so appointed;

(*c*) whether it is a fact that the said Chairman of Aladinagar Debt Settlement Board No. 2 was an employee under the Calcutta Corporation and that he was dismissed from the service as he was found guilty of bribery;

(*d*) if so, why a man of such an undesirable character was appointed Chairman;

(*e*) whether it is a fact that it was brought to the notice of the local authority;

(*f*) if so, what action since then has been taken by the local authorities in this matter; and

(*g*) what action the Government propose to take in this case?

The Hon'ble Mr. SANTOSH KUMAR BASU: (*a*) Maulvi Nazir Ahmed.

(*b*) January, 1941.

(*c*) to (*f*) The matter is under enquiry.

(*g*) It will depend on the result of the enquiry.

Adjournment Motion.

Mr. PRESIDENT: The Chair has received notice of the following motion for adjournment from Mr. Nur Ahmed:-

That this House do adjourn its business to discuss a definite matter of urgent public importance, namely, the sudden abnormal rise in the price of foodstuffs and other necessaries of life owing to the outbreak of the war with Japan causing intense hardships and sufferings to the poorer people of Bengal and the failure of the Government of Bengal to take any steps to check the said abnormal rise by controlling the prices of foodstuffs and other necessaries of life.

Mr. NUR AHMED: Sir, I can assure the Hon'ble Minister that I have not brought this motion to criticise the present Ministry.....

Mr. HUMAYUN KABIR: On a point of order, Sir. I would like to know——

Mr. PRESIDENT: Order, order. Yes, Mr. Nur Ahmed, go on.

Mr. NUR AHMED: Sir, I want to draw the attention of the House and of the Government to the fact that a grave problem has arisen after the declaration of war by Japan on the 7th December——

Mr. PRESIDENT: Order, order, you cannot speak on the merit of the motion now. You have first to satisfy the Chair that this is a matter of urgent public importance, since after the declaration of the war on the 7th December although the House sat on the 10th, 11th and 12th December, you did not raise the matter at the first available opportunity.

Mr. NUR AHMED: Sir, although the House sat on the 10th, 11th and 12th December, as there were no Ministers, I could not give notice. Now that the Ministry has been formed, I have come out with this notice of adjournment.

Mr. PRESIDENT: I see your point. The purpose of a motion for adjournment is to record a vote of censure against the Ministry for any action for which they are responsible. Now, as the honourable member himself says that he could not move the motion earlier because there was no Ministry, it having been formed only this morning, how can he fix the responsibility for the matter referred to in this motion on the new Ministry? So, I have to rule this motion out of order; but if the honourable member so desires, I would allow a short-notice question on the subject to elicit information.

Khan Bahadur NAZIRUDDIN AHMAD: May I enquire, Sir, whether it is possible to pass a vote of no-confidence with retrospective effect?

Mr. PRESIDENT: Order, order. I have ruled the motion out of order. At the same time, I would like to give the honourable member an opportunity to put a short-notice question in order to elicit general information as to the steps the Government propose to take to check the abnormal rise in prices.

Short-notice Question.

Mr. NUR AHMED: All right, Sir. I would ask the following short-notice question: —

Will the Hon'ble Minister concerned please state what steps are proposed to be taken by the new Government to control the abnormal rise in prices of all necessaries of life which are taking place every day to the great suffering of the poor people of Bengal?

The Hon'ble Mr. SANTOSH KUMAR BASU: Sir, I am thankful to the honourable member for raising this question. Although the adjournment motion, which you have been pleased to rule out, would be somewhat premature so far as the present Ministry is concerned, I may say in answer to the short-notice question that Government will certainly take into consideration the very important issue that has been raised and will take every possible step to cope with the situation which has been indicated in the question.

Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister be pleased to consider whether the rise in prices in other cases will be a hardship to the people of Bengal?

The Hon'ble Mr. SANTOSH KUMAR BASU: That is certainly a question to which Government will give their serious consideration.

Dr. KUMUD SANKER ROY: May I know, Sir, if any question other than rise in the prices of foodstuff can be asked in this connection?

Mr. PRESIDENT: No, no other question can be put.

Khan Bahadur ATAUR RAHMAN: May I ask any question regarding other necessaries of life?

Mr. PRESIDENT: You can ask questions generally relating to the necessaries of life.

Khan Bahadur ATAUR RAHMAN: May I know what steps are being taken to control the high price of piece-goods for which the poor people of Bengal are suffering?

Mr. PRESIDENT: The short-notice question was about the rise in the price of foodstuffs and other necessaries of life and the Hon'ble Minister in his reply has assured the House that he would look into this very important matter.

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of information, Sir. Dr. Ray perhaps wanted to elicit information on the point as to whether medicines were included in the term "other necessaries of life".

Mr. PRESIDENT: Order, order.

GOVERNMENT BUSINESS.

Laying of the Bengal Turbulent Areas Drdinance, 1941.

The Hon'ble Khan Bahadur M. ABDUL KARIM: Sir, I beg to lay on the Table the Bengal Turbulent Areas Ordinance, 1941.

Statement on Action taken on Resolutions.

The Hon'ble Khan Bahadur M. ABDUL KARIM: Sir, in accordance with the provisions of sub-rule (2) of Rule 95 of the Bengal Legislative Council Procedure Rules I have the honour to place for the information of this Council the following statement regarding the action

taken by Government on the Resolution regarding certain grievances of the clerks of the District Offices, that was passed by the House on the 16th of August, 1940:—

The Home (Appointment) Department who are concerned with the subject of communal ratio in Public Services have investigated into the matter. After discussion with Khan Bahadur Ataur Rahman, the mover of the Resolution, it was decided that the enquiry should be directed to the following points and that the District Ministerial Officers' Association should be asked to state their grievances in general with special reference to these points, (*a*) appointment; (*b*) transfer; (*c*) distribution of duties; (*d*) status in service; (*e*) leave; (*f*) holidays; (*g*) promotion. A report was accordingly called for from the Central Executive Committee of the said Association who after obtaining a report from all their subordinate District Associations submitted that there were no real grievances of the clerks, Hindus or Muslims, so far as the specific points mentioned above are concerned. The Association, however, complained of the pay and prospects of clerks in general. The Finance Department is now enquiring into this question and the complaints submitted by the Association have been sent to them for consideration.

The Hon'ble Mr. PRAMATHA NATH BANERJEE: The remaining items on the agenda, Sir, are matters for consideration by the newly-constituted Cabinet in the first instance. The Council of Ministers has just been formed but it has not yet met. So, I propose that these items may be left over.

Mr. PRESIDENT: I think there will be no work for to-morrow also in that case. Is there any other work?

Air-raid during sitting of the House.

Mr. J. B. ROSS: On a point of information, Sir. Would you very kindly give us your directions as to the procedure to be followed by the honourable members of the House in the event of an air-raid alarm being given?

Maulvi ABUL QUASEM: We shall follow the lead given by the European members.

Mr. NARESH NATH MOOKERJEE: We shall follow suit.

Khan Bahadur NAZIRUDDIN AHMAD: I think it would be a breach of the privilege of the House to drop bombs when the House will be sitting. (Laughter.)

Mr. PRESIDENT: Order, order. I understand exactly the same question was raised in the British House of Commons also. The relevant matter will be found discussed in the Hansard Vol. 362 at p. 1093. If I remember aright, on receipt of the warning "air-raid imminent", the Speaker suspends the sitting of the Commons.

I shall take up this matter again next day when the Hon'ble Minister in charge of the Home Department is expected to be present.

Mr. LALIT CHANDRA DAS: On a matter of information. There are some short-notice questions. I think those have been admitted. May I know at what stage they are now and whether they will be answered in this session?

Mr. PRESIDENT: Order, order. If they are matured, they will be answered. The House is adjourned till 2-15 p.m. on Friday, the 19th.

Adjournment.

The Council then adjourned till 2-15 p.m. on **Friday**, the 19th December, 1941.

Members absent.

Following members were absent from the meeting held on the 17th December, 1941 :—

(1) Mr. Mesbahuddin Ahmed.
(2) Mr. Altaf Ali.
(3) Mr. Kader Baksh.
(4) Mr. S. C. Chakraverti.
(5) Mr. Narendra Chandra Datta
(6) Mrs. K. D'Rozario.
(7) Mr. Kamini Kumar Dutta.
(8) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(9) Khan Bahadur Syed Muhammad Ghaziul Huq.
(10) Khan Bahadur Muhammad Asaf Khan.
(11) Maulana Muhammad Akram Khan.
(12) Dr. Radha Kumud Mookerjee.
(13) Khan Bahadur Kazi Abdur Rashid.
(14) Mr. B. K. Roy Chowdhury.
(15) Dr. Kasiruddin Talukdar.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

Third Session—No. 5.

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 19th December, 1941, at 2-15 p.m., being the fifth day of the Third Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. LALIT CHANDRA DAS: May I, Sir, enquire through you whether the Government of Bengal have seen the communiqué issued by the Government of India regarding the release of certain classes of political prisoners on the motion moved by Mr. Joshi in the Central Assembly?

Mr. PRESIDENT: Order, order. I shall not allow questions of which notice has not been received by the Chair beforehand. No doubt, I allowed short-notice questions in the past on important and urgent matters, but it should not be allowed to develop into a practice to ask short-notice questions on the floor of the House without proper notice being given to the Chair.

Presentation of Select Committee's Report on Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940.

Mr. NUR AHMED: Sir, I beg to present the Report of the Select Committee on the Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940.

Extension of time for submission of Select Committee's Report on the Bengal Public Gambling (Amendment) Bill, 1940.

Mr. NUR AHMED: May I also have your permission to move:

That the time for submitting the Report of the Select Committee on the Bengal Public Gambling (Amendment) Bill, 1940, be extended till the 31st March, 1942?

I may mention here that the time-limit originally fixed for the Select Committee's Report expired on the 31st October, 1940.

Mr. PRESIDENT: The question before the House is: that permission be granted for the extension of the date of submission of the Report of the Select Committee on the Bengal Public Gambling (Amendment) Bill, 1940, till the 31st March, 1942.

(The motion was agreed to.)

Short-notice question.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, may I ask a short-notice question in view of the urgency of the matter? I have already sent in a notice to you, Sir.

Mr. PRESIDENT: Order, order. Mr. Nur Ahmed has given notice of a short-notice question which I understand the Hon'ble the Chief Minister is willing to answer. The question runs thus:—

Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) If his attention has been drawn to the situation created in Calcutta by the publication of the news that Calcutta is about to be declared an "emergency" area?

(*b*) Is it a fact that a veritable panic has spread among the population of Calcutta and a large number of people are leaving Calcutta daily, leading to a tremendous rush at the Howrah and Sealdah Stations?

(*c*) If so, do the Government propose to take suitable measures to allay the panic and to look to the comforts of the people leaving Calcutta? If not, why not?

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I propose to take the three paragraphs together and make a joint reply. It is true that Calcutta is about to be declared an emergency area. It is also a fact that some panic has been created among the civilian population of Calcutta and that a large number of people are leaving Calcutta daily and that this has resulted in a great rush in the Howrah and Sealdah Stations. The Railway authorities are doing all that is possible for them to do in the circumstances to cope with the situation and to provide facilities for the people who are about to leave Calcutta. They are looking to their comforts and are co-operating with the Government in allaying any panic that may arise. As regards comforts, some amount of inconvenience is bound to occur; but steps are being taken to see that the people are not inconvenienced.

Rai Sahib JATINDRA MOHAN SEN: May I ask one supplementary question, Sir?

Mr. PRESIDENT: Yes.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to state approximately the time when Calcutta is going to be declared an emergent area?

The Hon'ble Mr. A. K. FAZLUL HUQ: I am afraid, I am not permitted to make any statement on that point.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to say if schools and colleges will remain open when Calcutta is declared an emergent area?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is very difficult to say that. The Christmas holidays are very near. So, if it is a matter of two or three days, nothing will be done. Afterwards the situation will be considered and suitable steps will be taken.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state if there is any possibility of the dates of the various University examinations being altered?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is not possible for the Government to say that. It is for the University to decide that. But I do not think they have considered that question yet.

Sir BIJOY PRASAD SINGH ROY: Will the Hon'ble Minister be pleased to state what steps Government have taken to allay the panic?

The Hon'ble Mr. A. K. FAZLUL HUQ: Government look to co-operation of the leaders of the people to allay the panic. The best way to allay the panic would be for those who know the real circumstances to tell the people that many of the rumours are false and exaggerated. Government can issue leaflets and, as a matter of fact, some leaflets are being circulated; but, as I have said, it depends on the leaders of the people to allay any panic that may exist among the people.

Sir BIJOY PRASAD SINGH ROY: Am I to assume, Sir, that no definite steps have been taken by Government to allay the panic?

The Hon'ble Mr. A. K. FAZLUL HUQ: As I have already said, leaflets are being circulated and so far as possible Government servants have been instructed to put the real facts before the public. Government expect that every one will try to disabuse the public mind of false rumours by stating the real facts.

Maulvi ABUL QUASEM: Will the Hon'ble Minister be pleased to state if the step taken by Government to advance a month's pay to their employees in order to enable them to remove their families from Calcutta is not calculated to increase the panic already there?

Mr. PRESIDENT: That is a matter of opinion.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to consider the desirability of asking the Railway authorities to provide for additional railway accommodation for the transit of a large number of passengers?

The Hon'ble Mr. A. K. FAZLUL HUQ: I will certainly take steps in the matter.

Rai Sahib JATINDRA MOHAN SEN: Will the Hon'ble Minister be pleased to state if it is a fact that in view of the panicky situation in Calcutta, goondaism and terrorism have increased in this city?

The Hon'ble Mr. A. K. FAZLUL HUQ: I am not aware, Sir.

Mr. NUR AHMED: Sir, as the Hon'ble Ministers are newly appointed and would require time to go through all the Bills that stand in my name in to-day's agenda, I do not intend to move any of the motions for referring the Bills to Select Committees and also those for taking the Bills into consideration. But I would ask for leave to introduce a Bill which stands in my name and if you would allow me, Sir, I propose to do so.

Mr. PRESIDENT: Very well, I shall call you when your turn comes.

Procedure to be followed in the event of air-raid on the Council Chamber.

Mr. PRESIDENT: I am grateful to the Leader of the European Group for asking me to give directions as to the procedure to be followed by the honourable members in the House in the event of an air-raid alarm being given.

There are really two questions to be considered in connection with air-raids—(1) the procedure to be followed regarding the business actually under consideration before the House when an air-raid alarm is given, and (2) the steps to be taken for the protection and safety of the honourable members while in the Legislative Building.

As regards the first point, namely, the procedure to be followed in the event of an air-raid, there should not be much difficulty. Under rule 3 of the Council Procedure Rules, the Chair has the power to adjourn the House at any time and in the event of an air-raid the presiding officer will adjourn the House immediately after the alarm is sounded, either till the next day or till the all-clear is sounded, as the occasion requires. The procedure of the House of Commons on the subject will be found in the Hansard, dated the 9th July, 1940. Copies of the Hansard may be had in our library. In short, the procedure is that as soon as the raid signal is heard, the sitting is suspended. Nothing is mentioned there about the time for which the sitting is suspended, but it is gathered that as soon as the "air-aid over signal" comes, or rather five minutes after the "air-raid over signal" comes, the members of the House of Commons attend the meeting. Details of this procedure are to be found in the Hansard.

As regards the question of the protection and safety of the honourable members, we are really in an awkward position. I regret to be compelled to say that up till now adequate steps for the safety of the honourable members in the event of an air-raid appear not to have been taken by Government. Even the elementary precautions in the Legislative premises such as fitting the glass-windows and doors with cloth strips or removing glass therefrom, erecting baffle walls, sinking tube-wells for working stirrup pumps in the event of failure of water-supply, etc., have not been undertaken. I am particularly anxious about the glass-windows and doors as it appears from an observation made by Sir William Davidson regarding air-raids in the House of Commons on the 11th July, 1940, that a bomb falling within a hundred yards may cause pieces of glass to fly off which may blind persons nearby. The Council is absolutely helpless in the matter. They are not allowed to take any steps whatsoever, as the premises are not within their control. My suggestion is that in view of the fact that India is now within the danger zone, an Air-raid Protection Committee of the Council on the lines of the Houses of Parliament A. R. P. Committee should be formed immediately. It is true that the House is going to be prorogued to-day, but as the Budget Session generally commences about the middle of February, it is desirable that arrangements should be completed before that time. The Committee which should be very small should take over the work of the A. R. P. in connection with the Council upon itself and issue immediate requisition to Government for taking the necessary steps. What is wanted is drive and promptness. The Committee should impress upon Government that if Government is to function, it cannot do without the Legislature and that the members of the Legislature while discharging their duties have as much claim to protection as the Judiciary and the Executive in the province.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, may I know what has happened about my short-notice question?

Mr. PRESIDENT: Order, order. It is open to any member of the House to move a motion for the appointment of an A. R. P. Committee of the House.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, my submission is that it will be for the President to choose the members of the Committee.

Mr. PRESIDENT: But, then, you have to move the motion that a Committee be appointed and so on.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that a Committee of the House be appointed by the Hon'ble the President to take charge of A. R. P. work in case of an air-raid.

Mr. J. B. ROSS: Mr. President, Sir, I have much pleasure in supporting the motion moved by my friend Khan Bahadur Naziruddin Ahmad. But at the same time I would suggest that the Committee, subject to your approval, should consist of the leaders of the various groups in the House with yourself as the Chairman of the Committee. I would also suggest that the Hon'ble Minister responsible might now make a statement as to what step he proposes to take to remedy the deficiencies which you have just pointed out.

The Hon'ble Mr. M. SHAMSUDDIN AHMED: Sir, I have not yet taken over full charge of the Department. So, I am not in a position to make any statement on the subject. The Hon'ble Chief Minister may make a statement on that.

Mr. J. B. ROSS: Mr. President, Sir, the Hon'ble Minister who just spoke was quite inaudible on this side of the House.

Mr. PRESIDENT: He merely stated that he had not yet got full charge of the Department and so he was not in a position to make a statement.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I have gone through the list of business. The House is aware that the Hon'ble Ministers were formally sworn in only the day before yesterday and the portfolios were distributed actually only yesterday. In these circumstances, it is not possible for the Hon'ble Ministers who have just taken over charge to make any statement regarding the legislative business before the House. The new Cabinet have got to settle Government policies with regard to them. We have not yet been able to meet. We had yesterday only an emergency meeting.

Mr. PRESIDENT: The question before the House was the motion moved by Khan Bahadur Naziruddin Ahmad that a Committee of the House be appointed by the Hon'ble the President to look after the A. R. P. arrangement of the House; to this there has been a suggestion from the Leader of the European Group that leaders of the different groups and the Hon'ble Minister in charge of the Department be included.

Mr. PRESIDENT: That is the motion before the House. Hon'ble members may now speak on this particular motion if they so desire.

Mr. HUMAYUN KABIR: Mr. President, Sir, we are aware that, as the Ministers have taken charge of their Departments quite recently, they cannot announce their policy with regard to the legislative business before the House; but for the moment we only want an assurance from the Hon'ble Ministers that during the course of the two or three months that would elapse from to-day before the Legislature is summoned again, steps will be taken on this motion in order to ensure the safety of the person and limbs of the honourable members who attend the House. That is the only assurance that we want at the moment—whether tube-wells will be sunk and other necessary steps will be taken. The House may surely expect some sympathetic consideration from Government in these matters.

The Hon'ble Mr. A. K. FAZLUL HUQ: That assurance can be given.

Mr. PRESIDENT: I think there would be no difficulty in accepting the motion before the House. I forgot to mention that Mr. Ross had suggested that the President should be the Chairman of the Committee. I shall bear that in mind. Now, I will put the question.

The question before the House is: that a Committee of this House be appointed by the Hon'ble President to look after the A. R. P. arrangements of this House.

(The motion was agreed to.)

NON-OFFICIAL BILLS.

The Bengal Hindu Women's Rights to Property Bill, 1941.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that the Bengal Hindu Women's Rights to Property Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 28th February, 1942.

Mr. PRESIDENT: Motion moved: that the Bengal Hindu Women's Rights to Property Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 28th February, 1942.

The Hon'ble Mr. PRAMATHA NATH BANERJEE: Sir, so far as this particular motion is concerned, I have not had time to consider it yet. I understand that the Government which we have succeeded gave certain assurances to the House in this connection. I should like to go through the proceedings of this House with reference to those assurances and therefore it would have been better if the honourable member were good enough not to press this proposal this session. In fact, I was never a member of this honourable House and therefore I am not aware of the position with regard to this Bill. This measure may be brought forward during the next session. I can, however, give an assurance that Government will look to the matter very carefully. Without agreeing to the principles of this measure, the Government will have no objection to elicit public opinion if the honourable member so desires.

Mr. HUMAYUN KABIR: May I, Sir, through you, submit for the information of the Hon'ble Minister that this motion is only for circulation and does not commit the Government to its principle at all? In fact, it will be noticed that no motions which appertain to the moving of Bills for reference to Select Committees, or for consideration, have been moved, for we quite realise that that the Government have not been able to make up their minds with regard to them. If the motion for circulation of this Bill is postponed till next February, it means loss of a great deal of time. At the same time, this circulation does not commit anybody in any way. In these circumstances, I hope the Hon'ble Minister in charge will be pleased to agree to this motion for circulation.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I inform the House that this Bill is literally the same as the one already under the consideration of the House. That Bill of mine is now under circulation, and the present Bill is almost the same. So, there will be duplication. Of course, I have no objection if it is circulated; but it would be doing a thing to which the House has already committed itself.

Rai Bahadur MANMATHA NATH BOSE: Sir, as has already been observed by my friend Mr. Humayun Kabir, this motion for circulation does not commit the Government in any way. As a matter of fact, Government do not lose anything by circulation and getting

certain opinions from the public—as to whether they agree to this Bill or they would like to have it modified. So, I submit that it is not necessary that this Bill should be withdrawn and it may be allowed to be circulated.

The Hon'ble Mr. PRAMATHA NATH BANERJEE: Sir, I am prepared to accept——

Mr. PRESIDENT: You have no right of reply. I think it is the duty of the Chair to point out at this stage that by accepting the motion for circulation the House will not be committed to the principle underlying the Bill. It is not a motion for reference of the Bill to a Select Committee. The House is committed only in case a Bill is referred to a Select Committee.

I will now put the motion before the House.

The question before the House is: that the Bengal Hindu Women's Rights to Property Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 28th February, 1942.

(The motion was agreed to.)

The Bengal Hindu Religious Endowments Bill, 1941.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I beg to move that the Bengal Hindu Religious Endowments Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 31st January, 1942.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support the motion moved by the Raja Bahadur. But in doing so I must point out that it is a very important Bill and it requires thorough and detailed consideration by the public. I am in agreement with the principle of the Bill. But I would suggest that a longer time be given for its circulation so that fuller attention may be paid by the members of the public and we may get a considered opinion on the Bill. In these circumstances, I would suggest that the time be extended a little, if that would suit the Raja Bahadur. I would suggest that a period of three months be given for this purpose, *i.e.*, till about the end of March next. It is only with the object that the Bill would receive more detailed consideration that I move the amendment. The amendment may run thus: that the Bengal Hindu Religious Endowments Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 31st March, 1942.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I have no objection to the amendment.

Mr. PRESIDENT: The question before the House is: that the Bengal Hindu Religious Endowments Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 31st January, 1942; since which an amendment has been moved to the effect that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1942. The question is that the amendment be made.

(The motion was agreed to.)

Mr. PRESIDENT: I will now put the original motion as amended.

The question before the House is: that the Bengal Hindu Religious Endowments Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 31st March, 1942.

(The motion was agreed to.)

The Code of Criminal Procedure (Bengal Amendment) Bill, 1941.

Mr. NUR AHMED: I beg to move for leave to introduce the Code of Criminal Procedure (Bengal Amendment) Bill, 1941.

Mr. PRESIDENT: The question before the House is: that Mr. Nur Ahmed be granted leave to introduce the Code of Criminal Procedure (Bengal Amendment) Bill, 1941.

(The motion was agreed to.)

The Secretary to the Council then read the short title of the Bill.

Mr. PRESIDENT: The Bill is introduced.

The Advocates' Robes Bill, 1941.

Rai Bahadur BROJENDRA MOHAN MAITRA: Sir, I beg to move for leave to introduce the Advocates' Robes Bill, 1941.

Mr. PRESIDENT: The question before the House is: that Rai Bahadur Brojendra Mohan Maitra be granted leave to introduce the Advocates' Robes Bill, 1941.

(The motion was agreed to.)

The Secretary to the Council then read the short title of the Bill.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Legislative Council Powers and Privileges Bill, 1939.

* **Mr. BANKIM CHANDRA DATTA:** Sir, may I have your leave to introduce the Bengal Legislative Council Powers and Privileges Bill, 1939? This Bill was once introduced, Sir, in December, 1939, and it was referred to a Select Committee. But unfortunately the Select Committee did not do any work and the matter ended there. Then I moved you, Sir, to exercise your powers conferred by rule 19 of our rules and you were pleased to revive the Bill.

The position now is that the personnel of the Select Committee appointed to report on this Bill has of necessity to undergo a change. So, Sir, may I now have your leave to move not only for an extension of the time fixed for the Select Committee to report on this but also, as I have submitted, for certain alterations in the personnel of the Select Committee?

Mr. PRESIDENT: On what ground shall I permit you to move it now? What are your reasons?

Mr. BANKIM CHANDRA DATTA: It is for the simple reason, Sir, that the Hon'ble Khwaja Sir Nazimuddin, the then Minister in charge of the Home Department, is no longer in office; so, in his place I propose the name of the Hon'ble Mr. A. K. Fazlul Huq, now Minister in charge of the Home Department. One more verbal alteration, Sir. We had then Khan Bahadur M. Abdul Karim as a member of the Select Committee, who has since been appointed an Hon'ble Minister. In his place, Sir, I want to have the name of Khan Bahadur Ataur Rahman.

I, therefore, formally move that in the personnel of the Select Committee, in place of the names of Khwaja Sir Nazimuddin and Khan Bahadur M. Abdul Karim, the names of the Hon'ble Mr. A. K. Fazlul Huq and Khan Bahadur Ataur Rahman be inserted, respectively, and that the Select Committee thus reconstituted do submit their report by the end of March, 1942.

Mr. BANKIM CHANDRA DATTA: There may be another addition, Sir, which through mistake I omitted.

Mr. PRESIDENT: Order, order. I shall not allow amendment by instalments. What you have already moved is before the House.

Motion moved: that for the names of Khwaja Sir Nazimuddin and the Hon'ble Khan Bahadur M. Abdul Karim, the names of the Hon'ble Mr. A. K. Fazlul Huq and Khan Bahadur Ataur Rahman be substituted respectively and that the date for the submission of the Report of the Select Committee be extended till the 31st March, 1942.

The question before the House is: that in the Select Committee for a Committee on the Bengal Legislative Council Powers and Privileges Bill, 1939, the following alterations be made that in places of Khwaja Sir Nazimuddin and the Hon'ble Khan Bahadur M. Abdul Karim the names of the Hon'ble Mr. A. K. Fazlul Huq and Khan Bahadur Ataur Rahman be substituted and the date for the submission of the Report of the Select Committee be extended till the 31st March, 1942.

(The motion was agreed to.)

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, may I draw your attention to the fact that at the beginning of the session you were pleased to the Hon'ble Khan Bahadur M. Abdul Karim to the Panel of Chairmen. Can he remain so after being elevated to the Treasury Bench?

Mr. PRESIDENT: It was only for this session.

Prorogation.

Mr. PRESIDENT: Order, order. I have it in command from His Excellency the Governor of Bengal that the Bengal Legislative Council do now stand prorogued.

Members absent.

The following members were absent from the meeting held on the 19th December, 1941:—

(1) Mr. Mesbahuddin Ahmed.
(2) Mr. Altaf Ali.
(3) Mr. Kader Baksh.
(4) Mr. S. C. Chakraverti.
(5) Khan Bahadur Rezzaqul Haider Chowdhury.
(6) Mr. Narendra Chandra Datta.
(7) Mr. Kamini Kumar Dutta.
(8) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(9) Mr. Kanai Lal Goswami.
(10) Khan Bahadur Saiyed Muazzamuddin Hosain.
(11) Mr. Mohamed Hossain.
(12) Khan Bahadur Syed Muhammad Ghaziul Huq.
(13) Khan Bahadur Muhammad Asaf Khan.
(14) Maulana Muhammad Akram Khan.
(15) Sir T. Lamb.
(16) Mr. J. McFarlane.
(17) Mr. Naresh Nath Mookerjee.
(18) Dr. Radha Kumud Mookerjee.
(19) Khan Bahadur Mukhlesur Rahman.
(20) Khan Bahadur Kazi Abdur Rashid.
(21) Dr. K. S. Ray.
(22) Mr. B. K. Roy Chowdhury.
(23) Dr. Kasiruddin Talukdar.

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Index to the
Bengal Legislative Council Debates.
(Official Report.)

Third Session, 1941.

December, 1941.

Address to Governor—

That in the opinion of the House Bengal has no properly constituted Executive Government since the acceptance of the resignation of the Council of Ministers and that as such the House is unable to transact any business. Pages 12-16.

Adjournment motion—

By Mr. Nur Ahmed regarding control of the price of foodstuffs. (Not admitted.) Pages 49-50.

Adulterated food—

Question regarding—by Khan Bahadur Ataur Rahman. Page 47.

Ahmad, Khan Bahadur Naziruddin—

Motion moved by—that an A. R. P. Committee be appointed for the Council. Page 60.

Participation by—in discussion on the point of Privilege raised by Mr. Humayun Kabir that in view of there being no Ministry and therefore no legally-constituted Executive Government in the Province, the Bengal Turbulent Areas Ordinance, 1941, could not be placed before the House. Pages 11-12.

Speech by—on the Bengal Hindu Women's Rights to Property Bill, 1941. Page 62.

Supplementary questions by—regarding the arrest of Mr. Sarat Chandra Bose, M.L.A. Page 24.

Speech by—on the Bengal Hindu Religious Endowments Bill, 1941. Page 63.

Ahmed, Mr. Nur—

Adjournment motion moved by—regarding control of the price of foodstuffs. Pages 49-50.

Code of Criminal Procedure (Bengal Amendment) Bill, 1941, introduced by—. Page 64.

Extension of time asked for by—for submission of Select Committee's Report on the Bengal Public Gambling (Amendment) Bill, 1940. Page 55.

Presentation by—of the Report of the Select Committee on the Bengal State-aid to Industries (Amendment) Bill, 1941. Page 19.

Presentation by—of Select Committee's Report on Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940. Page 55.

Question by—regarding improvement of road, irrigation, etc. Pages 39-40.

Question by—regarding Wakf Board. Pages 34-35.

Question by—regarding recruitment of Non-Bengalees for appointment to important and responsible posts in Bengal. Page 29.

Short-notice question by—regarding declaration of Calcutta as an emergency area. Page 56.

Short-notice question by—regarding control of food prices. Pages 50-51.

Supplementary question by—regarding declaration of Calcutta as an emergency area. Page 58.

Gratis.

Air-raid—

Information sought by Mr. J. B. Ross regarding the procedure to be followed by honourable members of the House in the event of an—alarm being given. Page 52.

Procedure outlined by Mr. President in case of an—on the Council Chamber. Pages 58-59.

Aladinagar Debt Settlement Board—

Question regarding—by Khan Bahadur Rezzaqul Haider Chowdhury. Pages 48-49.

Banerjee, the Hon'ble Mr. Pramatha Nath—

Speech by—on the Bengal Hindu Women's Rights to Property Bill, 1941. Page 62.

Bengal Secretariat Co-operative Death Benefit Society—

Question regarding—by Mr. Latafat Hussain. Pages 45-46.

Bengal Tenancy Act—

Question regarding section 86A of the —by Khan Bahadur Rezzaqul Haider Chowdhury. Page 37.

Bengal Turbulent Areas Ordinance, 1941—

Laying of the—on the Table of the House. Page 51.

Bill(s)—

Advocates' Robes—, 1941. Introduced by Rai Bahadur Brojendra Mohan Maitra. Page 64.

Bengal Criminal Law (Industrial Areas Amendment) Bill, 1941. Presentation of the Report of the Select Committee on the—by Mr. Khorshed Alam Chowdhury. Page 19.

Bengal Good Conduct Prisoners Probational and Temporary Release—, 1940. Presentation of Select Committee's Report on—by Mr. Nur Ahmed. Page 55.

Bill(s)—*concld.*

Bengal Hindu Women's Rights to Property—, 1941. Circulation motion moved by Rai Bahadur Manmatha Nath Bose. Page 61.

Bengal Hindu Religious Endowments —, 1941; circulation motion moved by Raja Bhupendra Narayan Sinha Bahadur, of Nashipur. Page 63.

Bengal Legislative Council Powers and Privileges—, 1939. Motion moved by Mr. Bankim Chandra Datta to extend the date for presentation of the report of the Select Committee. Page 65.

Bengal Markets Regulation—, 1941. Presentation of the Report of the Select Committee on the—by Khan Bahadur Saiyed Muazzamuddin Hosain. Page 19.

Bengal Public Gambling (Amendment)—, 1940. Extension of time asked for by Mr. Nur Ahmed for submission of Select Committee's Report on—. Page 55.

Bengal State-aid to Industries (Amendment)—, 1941. Presentation of the Report of the Select Committee on the—by Mr. Nur Ahmed. Page 19.

Bose, Mr. Sarat Chandra, M.L.A.—

Short-notice questions regarding the arrest of—by Mr. Lalit Chandra Das. Pages 23-25.

Bose, Rai Bahadur Manmatha Nath—

Question and supplementaries by—regarding aid to Egra Middle English School. Pages 31-32.

Question and supplementaries by—regarding posting an assistant surgeon in the King Edward Hospital, Midnapore. Pages 38-39.

Motion to circulate the Bengal Hindu Women's Rights to Property Bill, 1941, moved by—. Pages 61-63.

Central Co-operative Banks—

Question regarding—by Rai Bahadur Brojendra Mohan Maitra. Page 47.

Chakraverti, Mr. Jogendra Chandra—

Obituary reference by Mr. President to the death of—. Pages 1-2.

Chowdhury, Khan Bahadur Rezzaqul Haider—

Question by—regarding Aladinagar Debt Settlement Board. Pages 48-49.

Question by—regarding section 86A of the Bengal Tenancy Act. Page 37.

Question by—regarding re-excavation of Suti river. Page 43-44.

Question by—regarding part-time medical officers in the Calcutta Medical College. Page 27.

Chowdhury, Mr. Khorshed Alam—

Presentation of the Report of the Select Committee by—on the Bengal Criminal Law (Industrial Areas Amendment) Bill, 1941. Page 19.

Chowdhury, Mr. Hamidul Huq—

Supplementary questions by—regarding the arrest of Mr. Sarat Chandra Bose, M.L.A. Pages 24-25.

Chowdhury, Khan Sahib Abdul Hamid—

Question by—regarding Dacca University Examinations of 1941. Page 32.

Supplementary question by—regarding declaration of Calcutta as an emergency area. Page 57.

Dacca University Examinations of 1941—

Question regarding—by Khan Sahib Abdul Hamid Chowdhury. Page 32.

Das, Mr. Lalit Chandra—

Short-notice question by—regarding the arrest of Mr. Sarat Chandra Bose, M.L.A. Pages 23-25.

Amendment moved by—to Mr. Humayun Kabir's Motion to present an Address to the Governor that in the opinion of the House, Bengal, had no properly-constituted Executive Government since the acceptance of the resignation of the Council of Ministers. Page 15.

Datta, Mr. Bankim Chandra—

Motion moved by—for extension of the date for presentation of the Select Committee Report on the Bengal Legislative Council Powers and Privileges Bill, 1939. Page 65.

Debt Conciliation—

Question regarding appointment of Special Officer, —, by Mr. Latafat Hussain. Page 48.

Egra Middle English School—

Question and supplementaries regarding aid to—by Rai Bahadur Manmatha Nath Bose. Pages 31-32.

Hosain, Khan Bahadur Saiyed Muazzamuddin—

Presentation by—of the Report of the Select Committee on the Bengal Markets Regulation Bill, 1941. Page 19.

Question and supplementaries by—regarding suspension of office work during Jumma prayers. Page 30.

Supplementaries by—regarding Wakf Board. Page 36.

House Committee—

Nomination of the personnel of—by Mr. President for the current session. Page 3.

Huq, the Hon'ble Mr. A. K. Fazlul—

Speech by—regarding the difficulty of Hon'ble Ministers to make any statement for the time being in connection with the legislative business as they took oath of office only recently. Page 60.

Hussain, Mr. Latafat—

Question by—regarding Bengal Secretariat Co-operative Death Benefit Society. Page 45-46.

Question by—regarding appointment of Special Officer, Debt Conciliation. Page 48.

Improvement of road, irrigation, etc.—

Question regarding—by Mr. Nur Ahmed. Pages 39-40.

Indo-Burma Immigration Agreement—

Communication from the Government showing action taken by them on the Address presented to the Governor regarding the—. Page 4.

Joydeb Kundabilwa—

Question regarding raid on the house of Mohanta of—by Rai Sahib Jogendra Nath Roy. Pages 36-37.

Jumma prayers—

Question and supplementaries regarding suspension of office work during—by Khan Bahadur Saiyed Muazzamuddin Hosain. Page 30.

Kabir, Mr. Humayun—

Motion to present an Address to the Governor moved by—that in the opinion of the House, Bengal has no properly-constituted Executive Government since the acceptance of the resignation of the Council of Ministers. Pages 12-15.

Point of privilege raised by—that as there was no Ministry and no legally-constituted Executive Government in the province at the present moment, the Bengal Turbulent Areas Ordinance, 1941, could not be placed before the House. Pages 4-11.

Question by—regarding aid to the Muslim Orphanage situated at 8, Syed Sally Lane, Calcutta. Pages 33-34.

Question by—regarding Puber Bandh of Rashpur, Howrah. Page 43.

Question by—regarding sinking of tube-wells in Calcutta. Page 46.

Speech by—regarding arrangements for the protection and safety of the person and limbs of members of the House in case of air-raids. Page 61.

Speech by—on the Bengal Hindu Women's Rights to Property Bill, 1941. Page 62.

Kabir, Mr. Humayun—*concld.*

Supplementary question by—regarding declaration of Calcutta as an emergency area. Page 57.

Supplementary question by—regarding the arrest of Mr. Sarat Chandra Bose, M.L.A. Page 24.

Karim, the Hon'ble Khan Bahadur M. Abdul—

Bengal Turbulent Areas Ordinance, 1941, laid on the table by—. Page

Statement made by—about action taken by Government on the resolution regarding certain grievances of the clerks of the District Offices. Pages 51-52.

King Edward Hospital, Midnapore—

Question and supplementaries regarding posting an assistant surgeon in the—by Rai Bahadur Manmatha Nath Bose. Pages 38-39.

Maitra, Rai Bahadur Brojendra Mohan—

Advocates' Robes Bill, 1941, introduced by—. Page 64.

Question by—regarding Central Cooperative Banks. Page 47.

Medical College—

Question regarding part-time medical officers in the Calcutta—by Khan Bahadur Rezzaqul Haider Chowdhury. Pages 27-28.

Mookerjee, the Hon'ble Dr. Syama Prasad—

Adjournment of the House for a few days suggested by—as the Cabinet had not yet been fully constituted. Page 25.

Replies by—to the short-notice question put by Mr. Lalit Chandra Das regarding the arrest of Mr. Sarat Chandra Bose, M.L.A. Pages 23-25.

Motor car tax—

Question regarding non-payment of—in Jessore put by Mr. Amulya Dhone Roy. Pages 40-41.

Muslim Orphanage—

Question regarding aid to the—situated at 8, Syed Sally Lane, Calcutta, by Mr. Humayun Kabir. Pages 33-34.

Non-Bengalees—

Question regarding recruitment of—by Mr. Nur Ahmed. Page 29.

Non-official Bills—

(1) The Bengal Hindu Women's Right to Property—, 1941, (2) the Bengal Hindu Religious Endowments—, 1941, (3) the Code of Criminal Procedure (Bengal Amendment)—, 1941, (4) the Advocates' Robes—, 1941 and (5) the Bengal Legislative Council Powers and Privileges—, 1939 Pages 61-66.

Obituary reference (to)—

(*i*) Chakravarti, Mr. Jogindra Chandra, (*ii*) Khan Chowdhury, Mr. Ashraf Ali and (*iii*) Mr. C. E. Buckland, C.I.E. Pages 1-2.

Panel of Chairmen—

Nomination of—by Mr. President for the current session. Page 2.

Petrol coupons—

Question regarding issuing of—to muffassil members of the Legislature, by Mr. Amulya Dhone Roy. Pages 44-45.

Point of Privilege—

Raised by Mr. Humayun Kabir on the ground that there being no Ministry functioning and no legally-constituted Executive Government in the Province, the Bengal Turbulent Areas Ordinance, 1941, could not be placed before the House. Pages 4-12.

President, Mr.—

Acceptance by—of the suggestion made by the Hon'ble Dr. Syama Prasad Mookerjee to adjourn the business of the House for a few days owing to the fact that constitution of the Cabinet had not yet been completed. Page 25.

Announcement by—regarding the formation of a Ministry in Bengal Page 20.

Information given by—regarding the procedure followed in the British House of Commons at the time of an air-raid. Page 53.

Nomination by—of the Panel of Chairmen for the current session. Page 2.

Nomination of a House Committee by—for the current session. Page 3.

Obituary reference by—to the death of (1) Mr. Jogindra Chandra Chakravarti, (2) Mr. Ashrafali Khan Chowdhury and (3) Mr. C. E. Buckland, C.I.E. Pages 1-2.

Observation by—that by accepting a motion for circulation of a Bill the House will not be committed to the principle underlying it. Page 63.

Observation by—regarding procedure to be followed in the event of an air-raid on the Council Chamber. Pages 58-59.

Observation by—that the object of asking questions is to elicit information only, and that if any question is asked about policy, an Hon'ble Minister may ask for notice. Page 28.

Observation by—that it is the business of honourable members to bring all the papers that are distributed to them for their use in the Council Chamber. Page 28.

Observation by—in course of the short-notice questions put by Mr. Lalit Chandra Das regarding the arrest of Mr. Sarat Chandra Bose, M.L.A., that as the order for Mr. Bose's arrest had been passed by the previous Government, the present Ministry which had taken the oaths of allegiance and secrecy only that morning could not be expected to enlighten the House further on the point. Pages 23-25.

President, Mr.—*concld.*

Observation by—on point of privilege raised by Mr. Humayun Kabir that there being no Ministry and therefore no legally-constituted Executive Government in the Province, the Bengal Turbulent Areas Ordinance, 1941, could not be placed before the House. Pages 5-11.

Ruling by—on Mr. Nur Ahmed's adjournment motion regarding the control of the price of foodstuffs, that as the new Ministry came to office only that very morning, the responsibility for the matter could not be laid at their door. Pages 49-50.

Ruling by—that short-notice questions will not be allowed to be put on the floor of the House unless previous notice thereof is given to the Chair. Page 55.

Puber Bandh, of Rashpur, Howrah—

Question regarding—by Mr. Humayun Kabir. Page 43.

Quasem, Maulvi Abul—

Supplementary question by—regarding situation arising out of the declaration of Calcutta, as an emergency area. Page 58.

Rahman, Khan Bahadur Ataur—

Question by—regarding adulterated food. Page 47.

Ray, Dr. Kumud Sankar—

Supplementary question by—regarding control of the price of foodstuffs. Page 51.

Recruitment—

Question regarding—of Bengalees to responsible and important posts in Bengal. Page 29.

Report(s) of the Select Committee—

Presentation of the—on the Bengal Criminal Law (Industrial Areas Amendment) Bill, 1941, by Mr. Khorshed Alam Chowdhury. Page 19.

Report(s) of the Select Committee—*concld.*

Presentation of the—on the Bengal Markets Regulation Bill, 1941, by Khan Bahadur Saiyed Muazzam-uddin Hosain. Page 19.

Presentation of the—on the Bengal State-aid to Industries (Amendment) Bill, 1941, by Mr. Nur Ahmed. Page 19.

Resolution(s)—

Statement on action taken by Government on—regarding certain grievances of the clerks of the District offices. Pages 51-52.

Ross, Mr. J. B.—

Information sought by—as to what was to be done by honourable members in the event of an air-raid alarm during a sitting of the Council. Page 52.

Speech by—regarding appointment of an A. R. P. Committee of the House. Page 60.

Roy, Mr. Amulya Dhone—

Question by—regarding non-payment of motor car tax in Jessore. Pages 40-41.

Question by—regarding issuing of petrol coupons to mufassil members of the Legislature. Pages 44-45.

Roy, Rai Sahib Jogendra Nath—

Question by—regarding raid on the house of Mohanta of Joydeb Kundabilwa. Pages 36-37.

Roy Chowdhury, Mr. Krishna Chandra—

Observations by—on Mr. Humayun Kabir's motion to present an Address to the Governor intimating that Bengal had no properly-constituted Executive Government since the acceptance of the resignation of the Council of Ministers. Pages 14-15.

Sen, Rai Sahib Jatindra Mohan—

Supplementary question by—regarding declaration of Calcutta as an emergency area. Page 56.

Short-notice question—

By Mr. Lalit Chandra Das regarding the arrest of Mr. Sarat Chandra Bose, M.L.A. Pages 23-25.

By Mr. Nur Ahmed regarding declaration of Calcutta as an emergency area. Page 56.

By Mr. Nur Ahmed regarding control of the prices of food-stuff. Pages 50-51.

Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur—

Motion to circulate Bengal Hindu Religious Endowments Bill, 1941, moved by—. Page 63.

Singh Roy, Sir Bijoy Prasad—

Supplementary question by—regarding declaration of Calcutta as an emergency area. Page 57.

Special Officer—

Question regarding appointment of—Debt Conciliation by Mr. Latafat Hussain. Page 48.

Suti river—

Question regarding re-excavation of—by Khan Bahadur Rezzaqul Haider Chowdhury. Pages 43-44.

Tube-wells—

Question regarding sinking of—in Calcutta by Mr. Humayun Kabir. Page 46.

Wakf Board—

Question regarding—by Mr. Nur Ahmed. Pages 34-46.

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